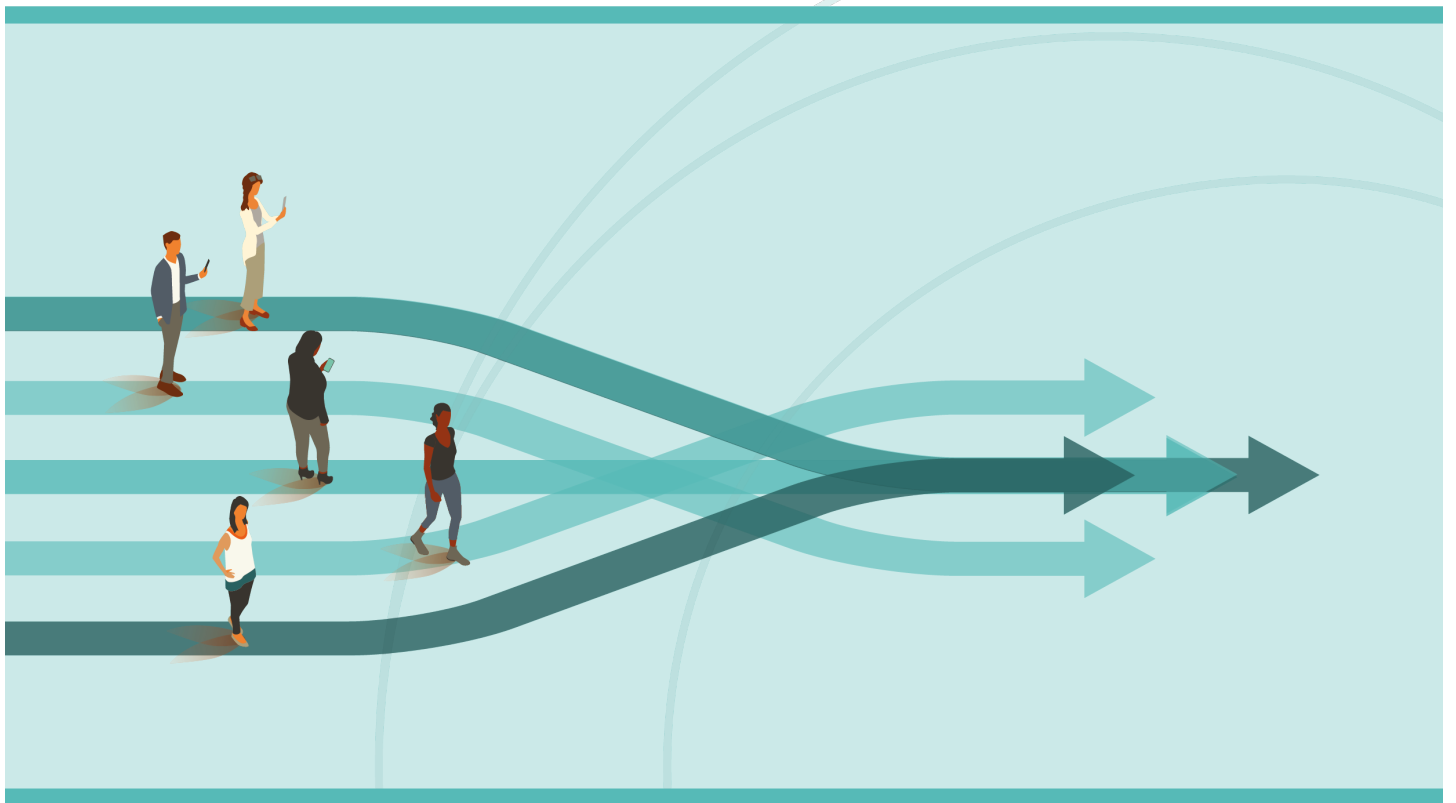




Guidance: Central Digital Platform and Publication of Information



Guidance on the Central Digital Platform and Publication of Information under the Procurement Act

What is the central digital platform?

1. The online system referenced in the Procurement Act 2023 (Act) and named in the Procurement Regulations 2024 (regulations) as the central digital platform is available at <https://www.find-tender.service.gov.uk/>
2. The central digital platform will enable:
 - a. contracting authorities and suppliers to register and receive a unique identifier;
 - b. contracting authorities to publish notices and other information as required under the Act for covered and below-threshold procurements;
 - c. suppliers to submit and store certain core organisational information as required by the regulations to participate in a covered procurement. This information will only be available to those contracting authorities that a supplier chooses to share it with; it cannot be freely accessed.
 - d. anyone to view the notices and access related public procurement data.
3. This guidance covers access to the central digital platform and the use of unique identifiers, the publication of information by contracting authorities (including requirements for the withholding of information), the submission and use of supplier information and requirements relating to the keeping of procurement records.
4. Note that there are differences for Wales in relation to the information to be published and submitted on the central digital platform so Welsh contracting authorities undertaking devolved procurement should refer to the devolved Welsh procurement-specific guidance. This will also apply to any other contracting authority using a framework or dynamic market established by a devolved Welsh contracting authority, contracting jointly with a devolved Welsh authority as the lead contractor, or using a devolved centralised procurement authority.

What is the legal framework that governs the central digital platform?

5. Regulation 5 sets out that notices, information or documents under the Act are to be published on the central digital platform found at www.gov.uk/find-a-tender.
6. Regulation 6 sets out contracting authorities' responsibilities, including confirming the supplier has shared its core supplier information (see paragraph 58 below) with the contracting authority through the platform when required.

7. Sections 94, 98 and 99 contain provisions on the management of information including exemptions to information publication and requirements for record-keeping. The detail on information required to be published under the Act, specifically in procurement notices, is contained in regulations 15-41.

What has changed?

8. Under the Act, procurement notices will be published by all contracting authorities in one place on the central digital platform.
9. Contracting authorities are required to obtain confirmation of registration and submission of core supplier information on the platform from suppliers who wish to participate in a specific procurement.
10. The approach to the publication and redaction of information under the Act is different from the previous legislation. The previous legislation sets out that in publishing contract award notices, certain information on the award of the contract or the conclusion of the framework agreement may be withheld from publication where its release:
 - a. would impede law enforcement or would otherwise be contrary to the public interest;
 - b. would prejudice the legitimate commercial interests of a particular economic operator, whether public or private; or
 - c. might prejudice fair competition between economic operators.
11. These provisions were also mirrored in regulation 112 of the Public Contracts Regulations 2015 (PCR) in relation to publishing information on Contracts Finder about below-threshold contracts.
12. The Act sets out a more limited test, in that the exemptions from publication are restricted to those set out in section 94. Disclosure of information is also subject to the provisions in section 99 on data protection. These sections are also of broader application, in that they must be considered when determining whether *any* information to be disclosed or published under the Act (that is to say, information other than that published on the central digital platform) may be withheld.
13. The Act also creates a requirement that if a contracting authority withholds information under section 94, the fact that information is being withheld must be published, along with the relevant ground, unless it would be contrary to the interests of national security to do so. These exceptions are modelled on the equivalent exemptions on data protection outlined in the Freedom of Information Act 2000 (FOIA) and are designed to be interpreted in the same way.

Key points and policy intent

Unique identifiers

14. As well as allowing for notices to be created, searched and viewed, the central digital platform will publish information in a standardised way in line with the Open Contracting Data Standard (OCDS) throughout the whole procurement process.
15. To ensure that published data is correctly attributed to specific parties and processes, all contracting authorities, suppliers, procurements and contracts will have a unique identifier on the central digital platform. The different types of identifiers are set out in regulation 8. Use of identifiers will prevent duplication of records and will link together all information associated with each procurement (and each supplier and contracting authority), facilitating tracking and analysis.
16. Contracting authorities are required to include these unique identifiers when publishing notices to the central digital platform.

Registration, buyer and supplier identifiers

17. Organisations using the central digital platform will use a unique number to identify themselves. This applies if the organisation is:
 - a. a supplier;
 - b. a contracting authority;
 - c. a person (i.e. an agent or organisation) carrying out a procurement or part of a procurement on behalf of a contracting authority; or
 - d. a person other than a contracting authority who is establishing a dynamic market under section 35(3).
18. For suppliers and contracting authorities, their identifiers are generated when they first register. Where an organisation already has a unique identifier from one of the official registers set out below, this identifier can be used on the central digital platform and inputted when first registering:
 - a. Companies House;
 - b. Charity Commission for England and Wales;
 - c. Scottish Charity Regulator;
 - d. Charity Commission for Northern Ireland;
 - e. Mutuels Public Register;
 - f. Guernsey Registry;

- g. Jersey Financial Services Commission Registry
- h. Isle of Man Companies Registry;
- i. National Health Service Organisation Data Service;
- j. UK Register of Learning Providers (UKPRN number).

19. Once registered, the organisational identifier will be published:

- a. in the case of a contracting authority, when the organisation submits a notice, to the central digital platform; or
- b. in the case of the supplier, whenever a notice is published that contains information about them. (To note, this supplier identifier is shared with contracting authorities as part of the supplier information requirements described in paragraph 59.)

20. The central digital platform will accommodate changes to both contracting authorities and suppliers, including, for example name changes, corporate restructure and governmental reorganisation.

Procurement and associated identifiers

21. A procurement identifier is allocated by the central digital platform when contracting authorities publish the first notice relating to a procurement.

22. Once the first notice is published, contracting authorities are required to use this procurement identifier in every notice. It can then be used to link all of the notices in a procurement process together. Each notice that a contracting authority subsequently publishes relating to that procurement adds more data to this record. By the time that a contract is terminated, a contracting authority will have a single data record for their procurement that shows activity at every phase of the commercial lifecycle.

23. There are two exceptions to this, explained below. These differences are set out clearly in the notices.

- a. Switching to direct award from a competitive process. When switching to direct award, a new procurement identifier is allocated when the transparency notice is published. This signals that the old competitive procurement has been discontinued. In this case, contracting authorities will include the procurement identifier of the original procurement within the transparency notice. Then, when the transparency notice is published, the system will generate a new procurement identifier. Subsequent notices will then be linked to the new procurement identifier from the transparency notice;
- b. Open Frameworks. Identifiers are used to ensure that awards made in accordance with the framework are linked to the correct framework within an open framework scheme and that each framework within the open scheme links back to the

procurement for the originating framework. The original procurement process will have an identifier. Each individual framework within the scheme will have its own procurement identifier which is linked to the originating procurement identifier.

Identifiers for awards in accordance with frameworks

24. Awards made in accordance with a framework (call-offs) are considered separate contracting processes from the framework itself, so each has its own procurement identifier. This is generated when the first notice in relation to the call-off is published. For a call-off contract which is likely to be above £2m, this may be as early as the pipeline notice.
25. Notices relating to awards made in accordance with frameworks must include the identifier for the relevant framework.

Identifiers for the establishment of dynamic markets

26. In the case of a dynamic market, the dynamic market identifier is allocated by the central digital platform when the first notice relating to the dynamic market is published. The identifier will be the same throughout the life of the dynamic market.

Identifiers for awarding contracts under a dynamic market

27. The dynamic market identifier and the procurement identifier for the contract to be awarded must be included in published notices. Where a dynamic market is divided into parts, and the contracting authority is restricting competition to suppliers on that part, the number of the part is also required. This information can be found in the dynamic market establishment notice.

Contract identifiers where more than one contract arises from a procurement

28. There may be more than one contract associated with the procurement. Contracting authorities should distinguish these contracts in the notice by numbering them sequentially, starting with 1. The same numbering will then be used in later notices, to allow the platform and users of the data to identify and link subsequent notices and information.

Publication of notices and other information by the contracting authority

29. Contracting authorities are responsible for publishing notices on time, containing all required information and accompanied by any associated documents. Failure to publish a notice when it is required, or publishing incorrect or incomplete information, could result in non-compliance with the Act and place contracting authorities at risk of a legal challenge. Refer to the guidance on remedies for further information.
30. To meet the requirements of the regulations, notices must first be published on the central digital platform, before being posted elsewhere. It is a contracting authority's responsibility to ensure that submission has been acknowledged or to check that the information is viewable on the central digital platform. Viewing the notice will enable contracting authorities to ensure

that all the submitted information is correctly displayed and to enable the rapid correction of any inadvertent mistakes.

31. If publishing directly using the central digital platform, contracting authorities will be prompted where information is incomplete and will not be able to submit their notice until all mandatory information has been completed.
32. If using an e-procurement service provider, notices that are rejected by the central digital platform will need to be reviewed and resubmitted if they are to be published. The exact process for resubmission will depend on the system used to publish the notices and contracting authorities will need to follow the relevant provider's procedures for resubmission.
33. Once published on the central digital platform, the notice or document may be posted elsewhere, for example a local or devolved procurement portal or a procurement section or buyer profile of a local authority website or portal.

Exemptions from duties to publish or disclose information

34. The Act establishes that information may be withheld from publication or disclosure if one of the exemptions set out in section 94 applies. Contracting authorities relying on section 94 must notify potential recipients (by including this in the relevant notice) that information is withheld and explain why, unless the contracting authority is satisfied that it would be contrary to the interests of national security to do so.
35. *National security*: Section 94(1)(a) provides that a contracting authority is not required to publish or disclose information if it is satisfied that withholding the information is necessary for the purpose of safeguarding national security.
36. Examples of information that may be withheld on national security grounds may include, but are not limited to:
 - a. classified information that requires protection from unauthorised access or distribution;
 - b. details relating to sensitive sites, such as military or intelligence services operations;
 - c. information relating to critical national infrastructure, where loss or compromise could result in serious economic or social damage to the UK;
 - d. information the release of which may result in suppliers or their supply chains becoming exposed to targeting by terrorist activities.
37. *Sensitive commercial information*: Section 94(1)(b) provides that a contracting authority is not required to publish or disclose information if it is satisfied that the information is sensitive commercial information and there is an overriding public interest in it being withheld. Section 94(2) defines exempt commercial information as information which:
 - a. constitutes a trade secret; or

- b. would likely prejudice the commercial interests of any person if it were published or disclosed.

38. The type of information that could potentially be withheld on the grounds of commercial sensitivity includes, but is not limited to:

- a. pricing: the way the supplier has determined the price it is charging including:
 - i. individual pricing elements;
 - ii. financial models and business plans, including details of profit margins and overheads;
 - iii. matters which enable the make-up of the bid to be determined;
- b. financial information which would affect the outcome of re-bid or future procurement. (this should not be grounds for withholding the contract value itself)
- c. intellectual property: elements of the bid (and assessment) which would reveal intellectual property; for example:
 - i. proprietary details of the solution that the contractor is deploying;
 - ii. innovative or unique technical solutions and methodologies; and
 - iii. trade secrets

39. Information can only be withheld on sensitive commercial grounds following a public interest test confirming that withholding the information outweighs the public interest in disclosing it. Contracting authorities should record and retain public interest test justifications where these have been undertaken.

Protected information in relation to connected persons

40. When publishing a contract award notice, contracting authorities have a duty to publish information about a supplier's associated person(s) (as defined in section 26(4)) and connected person(s) (as set out in regulation 11).

41. Depending on the type of connected person, this may include their name, date of birth, nationality and service address (which could be the same as their personal address). In most instances, this information will already be available on Companies House and therefore there should be no sensitivity around its publication.

42. Regulation 27(4-6) makes provision for circumstances where disclosure of information about a connected person could place that person or anyone living with them at risk. These provisions are modelled on the Register of People with Significant Control Regulations 2016 (the '2016 Regulations') but apply to all connected persons under the Act. Contracting

authorities should check with the suppliers that the details they share on connected persons are publishable, or if they are exempted from publication by the 2016 Regulations.

43. Where a connected person is a person with significant control (PSC) under the Companies Act 2006, and information relating to them is omitted from the PSC register established under that Act in accordance with regulation 33(1) of the 2016 Regulations, a contracting authority is not required to publish their information.
44. Where a connected person is not a PSC, a contracting authority is nevertheless not required to publish their information where that individual has confirmed in writing to the contracting authority that they are reasonably of the view that:
 - a. the activities of the company to whom they are connected; or
 - b. one or more characteristics or personal attributes of the applicant when associated with that company;

will put the applicant or a person living with the applicant at serious risk of being subjected to violence or intimidation. This could be the case, for example, if the supplier is operating in a controversial industry such as certain life sciences.

45. Where information about connected persons is protected from disclosure on the PSC register under the 2016 Regulations, contracting authorities should indicate that there is a PSC (by stating this in the relevant notice) but not provide any details.

Data Protection

46. Some of the information which may be published in accordance with the Act and regulations may amount to personal data. This could be the case where, for example, a contracting authority is required to publish the name of a connected person in a contract award notice.
47. Publishing personal data is a form of processing, and Article 5(1) of the UK General Data Protection Regulation ('GDPR') requires that, amongst other things, personal data must be processed lawfully. Article 6(1)(c) provides that personal data is processed lawfully where it is processed in accordance with a legal obligation. The obligations placed on contracting authorities by the Act and regulations therefore permit the publication of personal data where this is done in accordance with the Act and regulations. Section 99 of the Act makes this clear: it provides that the Act does not authorise or require any disclosure of information which would contravene data protection legislation (including the GDPR) but notes that account must be taken of the duties under the Act; that is to say that where the Act (and the regulations) require publication, this must be done in accordance with data protection legislation but does not in and of itself contravene that legislation. However, the Data Protection Act 2018 and GDPR do still apply to all other information that is published and must be considered by contracting authorities.
48. When considering whether to disclose information about any individual, contracting authorities must think about whether that could expose them to attention outside the expectations or responsibilities of that individual and whether mitigating action can be taken.

For example, in relation to contracting authority staff, contracting authorities can elect to use a group mailbox/contact centre details rather than providing the details of an individual procurement officer.

Alternative procedure for publication of information

49. Regulation 5(5) establishes an alternative procedure for publication of information which can be used where the following conditions are met:

- a. the contracting authority has not received confirmation that the notice or document has successfully been published on the central digital platform; and
- b. the notice or document is not capable of being viewed by members of the public on the central digital platform;

and;

- c. no less than 48 hours have passed since the notice or document was submitted to the central digital platform; or
- d. in the case of the notice being published pursuant to Schedule 5, paragraphs 13 or 14 (urgency) or pursuant to regulations made under section 42 of the Act (direct award to protect life, etc.), no less than 4 hours have passed since the notice was submitted to the central digital platform.

50. Where these conditions are met, contracting authorities may publish notices on an alternative online system (such as a local or devolved procurement portal or public website). This alternative online system must be free of charge and readily accessible to suppliers and to people with disabilities.

51. Contracting authorities should be able to manage their publications and procurements around any planned maintenance, which will be advertised in advance.

52. Where a contracting authority has published a notice on an alternative online system in accordance with regulation 5(5), publication is determined to have taken place for the time being as if the notice had been published on the central digital platform. This means that time periods triggered by publication of a notice, such as tendering periods and standstill, can continue as if publication had taken place on the central digital platform.

53. When publishing on an alternative online system, contracting authorities must ensure the notice contains all of the information required by the regulations. The only exception is the provision of the unique identifiers which do not need to be included until the notice is subsequently published on the central digital platform.

54. When publishing to an alternative online system, contracting authorities should consider what further steps can be taken to ensure that the market is aware of the publication, especially if the notice is inviting suppliers to submit a tender or request to participate. Appropriate steps might be, for example, setting out on the organisation's website or buyer profile where such notices can be accessed in these circumstances and/or notifying

suppliers directly who have previously expressed an interest or been engaged in earlier stages of the process that publication has taken place, as well as extending any deadlines relating to the procurement process.

55. Once the central digital platform is available, contracting authorities must ensure that the notice or document in question is subsequently:
 - a. published on the central digital platform; and
 - b. capable of being accessed by members of the public on the central digital platform.
56. Contracting authorities are not required to remove the notice from the alternative place of publication once it has been published on the central digital platform, but it would be advisable to ensure that any interested parties are aware that further information about the procurement will be published on the central digital platform.
57. A notice that has been published on an alternative online system is no longer to be treated as being published if it is subsequently submitted to the central digital platform and is rejected by the Cabinet Office. If this is the case then the contracting authority must publish a valid notice to continue with the procurement. Depending on the stage of the procurement, the contracting authority should consider whether any further action is required, for example restarting the procurement or extending time periods.

Supplier information

58. A key objective of the Act is to reduce the burden on suppliers by storing 'core supplier information' in one place: the central digital platform. Core supplier information is the data that is required for every procurement and that usually remains relatively unchanged from procurement to procurement, such as the supplier's address.
59. The core supplier information defined in the regulations (regulation 6) is divided into four key categories of information and covers (in summary):
 - a. supplier information: basic information. This includes (and is not limited to) the supplier's name, unique identifier, address, VAT number (if applicable), legal form and date of company registration (if applicable), details of qualifications/trade associations and classification, for example whether the supplier is an SME and/or a public service mutual;
 - b. supplier information: economic and financial standing as set out in the supplier's most recent financial accounts;
 - c. supplier information: connected persons. This includes (but is not limited to) information relating to relevant connected persons such as names, date of birth and nationality, service address and legal form.

- d. supplier information: exclusion grounds. This includes information relating to relevant convictions and events that form either a mandatory or discretionary exclusion ground under the Act.
60. Regulation 6 requires contracting authorities to obtain confirmation from suppliers that they have registered on the central digital platform, submitted their up-to-date core supplier information and have shared it via the central digital platform. Regulation 6(3-4) set out the latest point where this should be done (this is described further below) but contracting authorities can set an earlier deadline if required. This centrally-stored core supplier information will be submitted (and re-submitted) to contracting authorities by suppliers as directed by the contracting authority.
61. In order to meet this requirement, the conditions of participation should set out that suppliers will be required to register and submit their core supplier information through the central digital platform and when this must take place.
62. Once registered, suppliers can complete the core supplier information in advance or in response to a specific procurement opportunity. Suppliers will be able to update and add to this information and may upload supporting documents. Before submitting information to contracting authorities as directed, suppliers should check the information carefully, updating where required.
63. Contracting authorities may wish to request information that is not set out in the regulations and therefore not stored in supplier information on the central digital platform; this should be requested separately from the supplier. Where information that is set out in the regulations is missing from the central digital platform, contracting authorities must not request it separately and should instead request that suppliers provide that information via the central digital platform. See guidance on conditions of participation for further information.
64. When conducting covered procurements, certain information contained within supplier information will be required in subsequent notices as set out in the regulations.
65. If the supplier provides updated or corrected information to the contracting authority before the contracting authority decides to whom to award the contract, the contracting authority must obtain further confirmation that the supplier has updated and shared its information via the central digital platform (regulation 6(6)(b)).

Supplier information under competitive tendering procedures

66. When undertaking a competitive tendering procedure, core supplier information should be requested before the end of the tendering period, as this is the deadline by which the contracting authority must have obtained confirmation that the supplier has taken the necessary steps. This allows the information to be used as part of the assessment of supplier suitability.

Supplier information in competitive selection processes for the award of a contract under a framework

67. Contracting authorities should obtain supplier information through the central digital platform as part of a competitive selection process for the award of call-off contracts (section 46). Contracting authorities must have obtained confirmation that a supplier has taken the necessary steps before the decision to award the contract is made.

Supplier information when establishing a dynamic market

68. There is no requirement for the contracting authority to use the central digital platform to obtain supplier information when establishing a dynamic market. However, contracting authorities will need to set out the details of each supplier that has been admitted to the dynamic market, both upon establishment and whenever new suppliers are admitted, and this must include an identifier which can only be obtained by registering on the platform. It is therefore recommended that contracting authorities obtain supplier information from those suppliers being assessed for admittance to the dynamic market through the central digital platform.

Direct award under sections 41 or 43 of the Act

69. Contracting authorities have a duty to identify whether a supplier to be awarded a contract under sections 41 or 43 is an excluded supplier. With the exception of direct award in the case of urgency (see paragraph below), contracting authorities will, as a matter of practice, need to obtain core supplier information either before the transparency notice is published (as this will usually identify the supplier to be awarded the contract) or before the contract award notice is published. The contracting authority must have confirmation that the supplier has taken the necessary steps in relation to supplier information before it awards the contract.

Direct award in the case of urgency

70. In respect of a direct award in the case of urgency (Schedule 5, paragraphs 13 and 14), contracting authorities may not be able to wait for a supplier to register, complete and submit core supplier information through the central digital platform before contract award. Regulation 7(4) requires contracting authorities to ensure that the supplier registers and submit core supplier information via the central digital platform as soon as practicable and in any event before the date when the contract details notice (rather than the contract award notice) is published.
71. Contracting authorities will still be expected to undertake due diligence to confirm the supplier's eligibility and complete all of the required information in the transparency and contract award notices. The contracting authority is not required, in these circumstances, to obtain this information through the central digital platform.
72. The contract award notice must include a supplier identifier which can only be achieved by registering on the platform. A supplier will be able to obtain an identifier without completing more than their basic supplier information (regulation 9).

73. Private utilities relying on Schedule 5, paragraphs 13 and 14 are not required to receive core supplier information through the central digital platform (regulation 7(5)).

Applicability of supplier information to below-threshold contracts

74. There is no requirement for contracting authorities to use the central digital platform to collect supplier information in below-threshold procurement and the publication of supplier identifiers is optional in below-threshold notices. However, there is nothing preventing the contracting authority from requiring supplier information to be submitted in a below-threshold procurement. If known, contracting authorities should include supplier identifiers.

Alternative procedure for obtaining supplier information

75. Unavailability of the central digital platform may mean that a supplier is not able to register on the central digital platform and submit its information to the contracting authority before the end of the tendering period for an open or competitive flexible procedure, meaning that a contracting authority cannot meet its obligation to ensure that these steps have taken place. If this occurs, the contracting authority must obtain confirmation that these steps have been taken as soon as practicable and in any event before the award of the contract. There is nothing to prevent the contracting authority requesting this information directly from the supplier in the meantime in order to be able to continue with the procurement but this information should be checked against that received from the central digital platform.

Record-keeping

76. Section 98 requires contracting authorities to keep records sufficient to explain a 'material decision' made for the purpose of awarding or entering into a public contract. Section 98 does not apply to defence and security contracts.

77. Section 98(2-4) explains that a material decision relates to a decision that the Act requires the contracting authority to make (including where the Act requires publication or provision of a notice or other information in respect of the decision). This might include, for example, recording decisions relating to application of the National Procurement Policy Statement or which barriers the contracting authority has identified in relation to access for small and medium-sized enterprises, decisions relating to how to ensure that incumbent suppliers are not granted an unfair advantage or where it has been decided to disqualify a supplier from participating further in a competitive tendering procedure.

78. It is unlikely that a notice by itself will be sufficient to discharge this obligation and contracting authorities must ensure that they keep their own records and not rely on the fact that they have published a notice on the central digital platform.

79. In addition, section 98(3) provides that a contracting authority must keep records of any communication between the authority and a supplier that is made:

- a. in relation to the award or entry into of a public contract; and

b. before the contract is entered into.

80. Records kept under section 98 must be retained for either:

- a. three years from the day the contract is entered into;
- b. three years from the date the contract is awarded, if it is awarded but not subsequently entered into; or
- c. where no contract is ultimately awarded under the procurement process in question, until the day the contracting authority gives notice of its intention not to award the contract, usually done via publication of a procurement termination notice.

81. Other legal duties may apply to data retention, archiving and disposal (some of which may require contracting authorities to keep records for longer than the 3 years specified in the Act). The retention, review and disposal of original records (including, where relevant, the transfer of public records to the National Archives) remains the responsibility of individual contracting authorities.

What other guidance is of particular relevance to this topic area?

In order to comply with the requirements relating to the publication and use of information on the central digital platform, contracting authorities will need to be familiar with the requirements for each of the notices which are explained in more detail in the full suite of guidance on the Act.

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