



Crown  
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# Procurement Policy Note – Promoting Greater Transparency

Information Note PPN 02/17 December 2017

## Issue:

1. Government policy is to adopt and encourage greater transparency in its commercial activity. All In-Scope Organisations must, as a minimum, follow the [legal requirements to publish](#) advertised opportunities and awards on Contracts Finder as required by [Public Contracts Regulations 2015](#). Government has made a number of other commitments in relation to transparency of public contracting data.

## Dissemination and Scope:

2. The contents of this Procurement Policy Note (PPN) applies to Central Government, Agencies, Non Departmental Public Bodies, wider public sector, local authorities and NHS bodies. Together these are referred to as 'In-Scope Organisations'. As well as the requirements to comply with the Public Contracts Regulations 2015, transparency requirements extend to organisations across the public sector. Please circulate this PPN within your organisation, drawing it to the attention of those with a commercial and procurement role.

## Timing:

3. In-Scope Organisations must apply the provisions of this Procurement Policy Note with immediate effect.

## To Note for Information:

### Legal requirements for publication

#### Thresholds for publication

4. The thresholds for publication are as follows:

- Central Contracting Authorities: £10,000
- Sub Central Contracting Authorities and NHS Trusts: £25,000

## Advertising opportunities

5. The Public Contracts Regulations 2015 (PCRs) require In-Scope Organisations to ensure that when advertising a new procurement opportunity above the thresholds at paragraph 4, that the advert is also placed on [Contracts Finder](#)<sup>1</sup>. For below OJEU threshold opportunities<sup>2</sup>, In-Scope Organisations may advertise on Contracts Finder even if they do not advertise elsewhere.

6. For above OJEU threshold procurements, the advert must be placed on Contracts Finder in addition to Tenders Electronic Daily (TED).

7. As a minimum, In-Scope Organisations must publish on Contracts Finder the following details (Note: Contracts Finder has some additional fields that authorities should complete in order to provide more meaningful data to suppliers):

- the time by which any interested supplier must respond if it wishes to be considered,
- how and to whom an interested supplier is to respond, with appropriate contact details and
- any other requirements for participating in the procurement, (e.g. suitability requirements or explanatory information).

## Publishing awards

8. In-Scope Organisations must also ensure that contract awards above the thresholds set out in paragraph 4 are published on Contracts Finder. This includes awards made following a call-offs from Framework Agreements and contracts that may not have been openly advertised.

9. It is the responsibility of the In-Scope Organisation awarding the contract to publish the details of the award on Contracts Finder (unless alternative arrangements to publish have been agreed, for example, where an agent or Framework Agreement owner has agreed to publish the contract on behalf of the In-Scope Organisation).

10. In-Scope Organisations must publish on Contracts Finder details of who has won the contract, the contract value, and (for procurements below the EU thresholds) indicate whether the winning supplier is a small business<sup>3</sup> or voluntary organisation or charity. The information must be published in a reasonable time and it is recommended that the information be published no later than 90 calendar days after the contract award date. Further guidance is available [here](#).

11. The following bodies are exempt from the legal requirements set out in paragraphs 5 to 10. (Note: This is not an exhaustive list and you should refer to the Public Contracts Regulations 2015 for further information):

- contracting authorities whose functions are devolved or mainly devolved functions of Scotland, Wales or Northern Ireland,
- the procurement of health care services for the purposes of the NHS within the meaning and scope of the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013

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<sup>1</sup> Where a contracting authority is satisfied it is lawful not to advertise an opportunity and chooses not to advertise at all, the requirement to advertise on Contracts Finder does not apply to that contract. Further [guidance](#) is available.

<sup>2</sup> I.e. Regulation 110 of the Public Contracts Regulations 2015.

<sup>3</sup> References in this Action Note to small businesses refers to small and medium-sized enterprises (SME). SME means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the [European Commission Recommendation of 6 May 2003](#).

- maintained schools, academies or sixth form college corporations.

## **Additional Policy Requirements for Publication**

### 12. Central Government

This section applies to central government including departments, their agents, agencies, all Non-Departmental Public Bodies and Trading Funds and National health bodies, but excluding NHS Trusts and procurements relating to healthcare services.

- Tender and Contract documents

In-Scope Organisations must publish tender and contract documents with the Contract Notice at the relevant stage of the procurement. These can either be attached to the Contract Notice on Contracts Finder (preferable) or a permanent link provided to where the documents are hosted online (where the document suite is too large to be uploaded directly). Guidance can be found [here](#).

- Transparency Principles

The Transparency Principles published on 24 March 2015 require In-Scope Organisations to proactively release information during the life of the contract. You should establish at the start of a procurement or at contract award what information can be published, with exemptions following the provisions of the Freedom of Information Act, for example on national security or commercial confidentiality grounds. Only genuinely commercially sensitive information should be withheld. Further guidance on exemptions can be found [here](#).

### 13. Local Government

This section applies to Local Government. As a Local Government buyer, in addition to the legal requirements to publish covered by the Public Contracts Regulations 2015, [The Local Government \(Transparency Requirements\) \(England\) Regulations 2015](#) require Local Authorities to publish information contained in Part 2 of the [Local Government Transparency Code](#). This requires quarterly publication of contracts and tenders valued over £5000<sup>4</sup>.

14. In Part 3 of the Code, for procurement information, the Department for Communities and Local Government recommend local authorities to go further than the minimum requirements of Part 2 of the code and implement monthly (or preferably real time) publication on Contracts Finder of:

- every invitation to tender for contracts to provide goods and/or services with a value that exceeds £500 (rather than £5000);
- details of invitations to tender or invitations to quote that have not been formerly advertised; and
- all contracts in their entirety where the value of the contract exceeds £5,000<sup>5</sup>.

15. Responsibility for this legislation and Code lies with the Department for Communities and Local Government, who conducted a consultation on strengthening the code, details of which can be found [here](#).

## **Publication of Tenders Electronic Daily (TED) notices on Contracts Finder**

16. Contracts Finder does not have an automatic link with the EU portal 'Tenders Electronic Daily' ([TED](#)), so any contract notice that is published on TED must also be published on Contracts

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<sup>4</sup> refer to paras 31 & 32 of the Local Government Transparency Code.

<sup>5</sup> refer to paras 59 & 60 of the Local Government Transparency Code.

Finder. This should be within 24 hours<sup>6</sup> of the time when the contracting authority becomes entitled to publish the notice at national level.

### **Use of procurement portal providers**

17. When using a procurement portal provider, this information must also be published on Contracts Finder within 24 hours of the time when it is first advertised. In-Scope Organisations should:

- confirm with their portal provider whether there is already a working link to Contracts Finder;
- ensure buyers in their organisation know how to use their portal to publish their notices to Contracts Finder; and
- act promptly to address any issues with their portal provider if notices are not appearing on Contracts Finder.

18. In-Scope Organisations should ensure key information, such as Contracting Authority name, contract title and description, is presented consistently across these advertising platforms (i.e. between TED, local portals and Contracts Finder) and across individual notices published by the same In-Scope Organisation.

19. In-Scope Organisations publishing notices on behalf of others should ensure that all parties are clearly identified in the description of the contract and/or title.

### **Background:**

20. In-Scope Organisations have wide responsibilities in relation to transparency and this PPN brings these together into a single guidance note, and in some cases restating requirements that have been in effect since 26 February 2015. This PPN should be read alongside additional published [guidance on transparency requirements for publishing on Contracts Finder](#) to assist In-Scope Organisations in meeting their transparency requirements.

21. Contracts Finder was re-launched in February 2015 to be the single, central repository for public sector tenders. It allows suppliers to search (at no cost) for tenders on the basis of sector, location or price as well as find details of contract awards.

### **Contact:**

22. Enquiries about this PPN should be directed to the Crown Commercial Service Helpdesk on 0345 410 2222 or [info@crowncommercial.gov.uk](mailto:info@crowncommercial.gov.uk).

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<sup>6</sup> Or at the end of the next working day if this period falls on a non-working day.