



MAKING BEST USE OF PROCUREMENT RESOURCES DURING THE COVID-19 PANDEMIC

Purpose

1. In light of the COVID-19 pandemic this SPPN reminds public bodies of the range of procurement procedures available to them and describes some practical steps that can be taken to optimise resources in these exceptional circumstances.
2. This SPPN should be read together with SPPNs 4/2020 and 5/2020 which describe some other specific flexibilities of the procurement rules at this time.
3. The content of this SPPN is not legal advice and should not be construed as such. Public bodies are advised to seek their own legal advice in relation to any questions and issues they may have.

Summary

- During the COVID-19 pandemic minimising pressures on supply chains is paramount to ensure that suppliers at risk are better able to cope with the current crisis and ensure service continuity and delivery during and after the outbreak.
- Public bodies should take particular care over the coming months to keep their existing and forthcoming contracts under review to ensure that these remain practical.
- Previous SPPNs consider options to procure goods with extreme urgency (SPPN 4/2020) and options for supplier relief (SPPN 5/2020). This note suggests practical examples of how activity might be prioritised including taking account of factors like current and evolving supplier capacity and capability as we move from our response to the pandemic and into recovery.
- The European Commission has also issued guidance on using the public procurement framework in the emergency situation related to the COVID-19 crisis (2020/C108 I/01).¹ This guidance places an emphasis on use of accelerated

¹[https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0401\(05\)&from=EN#ntr1-CI2020108EN.01000101-E0001](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0401(05)&from=EN#ntr1-CI2020108EN.01000101-E0001)

procedures at the moment and the opportunity to take an innovative approach to supply solutions. It also suggests some considerations which public bodies may wish to reflect on as, and when, travel and access restrictions are lifted.

- Public bodies need to ensure that their staff and suppliers are using their resources as efficiently as possible and making best use possible of the procurement procedures available. For example, they could use appropriate public procurement framework agreements that are already available to optimise resources.

Background

4. The current outbreak of COVID-19 is having a significant impact on businesses of all sizes. Many suppliers will struggle to meet their contractual obligations and this will put their financial viability, ability to retain staff and their supply chains at risk. This SPPN describes some practical steps for existing contracts and forthcoming contracts that public bodies might want to consider in discussion with their customers and suppliers to reduce pressures on them at this time.

Existing contracts

5. For contracts that are already in place public bodies will want to consider the most appropriate response to ensure continuity of service. Public bodies should:

- work with suppliers to understand the specific pressures they face and identify potential solutions on a case-by-case basis.
- consider with individual suppliers whether it might be sensible in some cases to revise delivery dates and other elements of the contract. For example:
 - the Scottish Government conducts a number of field work surveys each year and has halted these surveys due to travel and access restrictions and is reconsidering how and when best to progress this work.
 - other contracts that include inspections have had Key Performance Indicators temporarily varied to take account of the implications of COVID-19.
 - in some contracts where delivery is particularly critical, there is increased contact with suppliers to ensure issues and concerns are captured and addressed quickly.

New procurements

6. For any procurement procedures due to start soon, buyers should first speak with their customers to ensure that it is necessary to commence the procurement at this time, that the requirement still exists and that it is still practical to deliver:

- Is the market able to submit bids at this time? Again, a supplier's approach to furlough² may impact on its ability to bid. For example, if the majority of staff in an organisation including those involved in submitting tenders are on furlough, which is distinct from working from home, this could affect the ability of individual businesses to submit a tender at this time;
- Sourcing strategies and specifications should be reviewed to check that these are still achievable or if any changes are needed;
- Consider whether it may be necessary to rewrite parts of the specification and other documentation such as evaluation criteria. For example, for a service contract that would traditionally involve face-to-face interaction consideration might need to be given to using innovative technology to reduce or replace that requirement. This may have the additional benefit of positive environmental benefits.

7. These steps should be carried out to ensure that procurement procedures are not commenced that are not practical to deliver and to ensure the best use of resources at this time.

8. For procurements that need to proceed, buyers should consider making the greatest use of technology in the market engagement process. For example, some organisations will have facilities to provide for video-conferencing/information sessions. The Supplier Development Programme³ may be able to assist.

9. It will also help suppliers to manage uncertainty if changes to procurement plans and timescales are clearly communicated through forward plans⁴ and other media. This will provide assurance to suppliers as circumstances change and opportunities arise.

10. More generally buyers should continue to use existing flexibilities in the public procurement rules to minimise timescales and/or administrative resource. These flexibilities include:

- use of the most appropriate procurement procedure to reduce the burden on both buyers and suppliers – in particular the restricted procedure should be used

²<https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme>

³ <https://www.sdpscotland.co.uk/>

⁴ <https://www.publiccontractsscotland.gov.uk/Info/InfoCentre.aspx?ID=1361&Type=1601&Path=1601>

for procurement exercises where market analysis has shown many bidders could meet your needs and bid⁵

- appropriate national and sectoral framework agreements and dynamic purchasing systems
- the PCS 'Quick Quote' facility for lower value procurements – available up to £50,000 for goods and services and up to £2 million for works
- use of the negotiated procedure without prior publication – for example, direct award, that is available in some cases for reasons of extreme urgency brought about by unforeseeable events. Information about using direct award and other flexibilities, including steps that can be taken to modify and extend contracts and also to reduce cash flow concerns, are described in SPPNs 4/2020 and 5/2020;
- continue to promote the use of PCS for subcontracting in line with SPPN 5/2019⁶

11. As buyers turn their attention to their forward plans and restrictions lifting, including releasing any procurements temporarily put on hold during the crisis, they should consider how they might plan and coordinate the release of these invitation to tenders to avoid flooding the market. Many businesses may still be in recovery mode and perhaps less able to bid. Where possible, public bodies are urged to consider:

- Using the prioritisation tool and other [sustainable procurement duty tools](#) to assist early stage strategic planning and to help embed relevant and proportionate sustainability requirements in the development of frameworks and contracts.
- Working with economic development colleagues and other collaborative stakeholders (including through city or region deal networks) to support emerging priority areas of spend. This might include focused approaches and/or interventions with markets likely to receive simultaneous tender opportunities from multiple public bodies.

Dissemination

12. Please bring this SPPN to the attention of all relevant staff, including those in agencies, non-departmental public bodies and other sponsored public bodies within your area of responsibility.

⁵ <https://www.procurementjourney.scot/route-3/develop-strategy/procurement-routes>

⁶ <https://www.gov.scot/publications/advertising-subcontracting-opportunities-on-the-public-contracts-scotland-pcs-website-sppn-5-2019/>

Contact

13. If you have any questions about this SPPN, please email the Scottish Procurement mailbox at scottishprocurement@gov.scot. You can also write to:

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