

# Procurement Policy Note – New requirements for greater transparency in central Government procurement.



## Action/information Note 13/10 30 June 2010

### Issue

1. The Prime Minister's published letter on Transparency of 29 May 2010 set out specific commitments on transparency in procurement and contracting:
  - All new central government ICT contracts to be published online from July 2010.
  - All new central government tender documents for contracts over £10,000 to be published on a single website from September 2010, with this information to be made available to the public free of charge.
  - All new central government contracts to be published in full from January 2011.
2. The OGC are leading on the co-ordination of the implementation of these commitments and this note is the first of a series of action notes on implementation.
3. "Central Government" means central government departments and the agencies and Non Departmental Public Bodies for which they are responsible. Procurement transparency for local government and other parts of the wider public sector will be handled separately.
4. From the 1 July, Departments should seek to publish ICT contracts in as full a set of documentation as possible on their own websites. This requirement applies to all ICT contracts with terms which either:
  - (a) do not contain confidentiality clauses or
  - (b) where such clauses have not been finalised.Departments should avoid including confidentiality clauses in current and all future ICT contracts.
5. In the absence of further detailed guidance, Departments should take legal advice on any risks that may arise from publication. Limited redactions of specific contractual text on the grounds of national security, protection of personal privacy, IT security and the prevention of fraud are permitted. OGC should be consulted in cases of doubt.
6. The Intelligence Agencies are completely exempt. Certain National Security-related contracts in a number of other departments may also be omitted entirely – the OGC

will work with the departments concerned on this.

7. These instructions are subject to Ministerial approval and may change. In addition OGC will be seeking feedback from stakeholders over the next few weeks on how this commitment is being implemented and any challenges arising in order to incorporate this into more detailed guidance on the exact timing, format and location of publication for the later commitments.

## Dissemination

8. These commitments apply to central Government departments and their executive agencies and NDPBs. Please circulate this Procurement Policy Note (PPN) within your organisation, agencies, non-departmental public bodies (NDPBs), and any other bodies for which you are responsible, drawing particular attention to those with purchasing and communications roles.

## Contact

9. Enquiries about this paper should be addressed to the OGC Service Desk 0845 000 4999 [servicedesk@ogc.gsi.gov.uk](mailto:servicedesk@ogc.gsi.gov.uk). The lead official in OGC is Sally Collier [sally.collier@ogc.gsi.gov.uk](mailto:sally.collier@ogc.gsi.gov.uk).

## Background

10. In its publication, *The Coalition: our programme for Government*, Government set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This included commitments relating to public expenditure, intended to help achieve better value for money. The Prime Minister's letter of 29 May 2010 built on this to make specific commitments on public procurement and other financial and staffing information.
11. In addition to the July commitment on ICT contracts on which specific action is commissioned in paragraphs 4 and 5 above, the OGC are working on further guidance on the other two commitments.

### The publication of tender documents commitment

12. This requires that all new central government tender documents for contracts over £10,000 to be published on a single website from September 2010, with this information to be made available to the public free of charge.
13. It is envisaged that:
  - In order to meet this commitment, departments will need to publish contract advertisements *plus* additional tender documentation.
  - The commitment will not apply to contracts with an expected value of less than £10,000.
  - The commitment will apply to all competitive tenders above £10,000, whether

open tenders or competitive tenders against a framework or other pre-selected list of suppliers.

- The commitment will apply to all "single tenders" above £10,000.

14. It is **not** intended that this will lead to any change in departmental decision-making about which tendering procedures are appropriate for any particular procurement. For contracts below the thresholds set by the procurement rules (including those above £10,000) where departments would not normally initiate a competitive tender the procurement method and extent of tendering will remain at departments' discretion taking into account internal thresholds set by departments in this regard, legal obligations and the need to obtain value for money. However, there is a presumption that where information is available regarding a procurement it should be published whether or not it is subject to competitive tendering.
15. This commitment is not retrospective. It will only apply to procurement exercises where the tender document is issued on or after the start date in September 2010.
16. The OGC are considering options for the delivery of the single website, building on work already done on the new procurement portal. Exemptions and redactions for National Security and other security reasons will be possible, and further guidance will be issued on these.

#### The publication of central government contracts commitment

17. The requirement is that all new central Government contracts must be published in full from January 2011. Work is now underway to determine whether certain limited redactions and/or exemptions may need to be considered by departments when implementing this commitment, for example, redactions in relation to national security and the prevention of fraud. As above, this is not retrospective so will not apply to contracts concluded and signed prior to the start date.
18. Further guidance will include:
  - Timing of publications;
  - Format of publication;
  - Redactions and exemptions;
  - New transparency clauses.
19. Departments should be aware that the transparency agenda as a whole is being overseen by the Public Sector Transparency Board, which has been established in the Cabinet Office. The Board is chaired by Francis Maude, the Minister for the Cabinet Office. The Board's role will include providing support to departments as they deliver the Government's transparency commitments.



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