

Guidance on the new transparency requirements for publishing on Contracts Finder

This guidance is aimed at contracting authorities across the public sector. It, applies to new procurements from the day upon which the Public Contracts Regulations 2015 (the Regulations) come into force (see regulation 118 for details).

This guidance supplements, but does not replace or supersede, existing transparency guidance or codes of practice in central government, the NHS, and local government. This guidance is not statutory.

The guidance underpins Regulations 106, 108, 109, 110, 112 of the Public Contracts Regulations 2015. It explains the main features of the relevant Regulations, but is not a comprehensive guide to the law. You should seek legal advice if you are unsure about the effect of the Regulations.

For exclusions see below.

1. Introduction

A number of new reforms to make public sector procurement more accessible, particularly to smaller businesses and voluntary or charitable organisations, have now been implemented in the Public Contracts Regulations 2015, following consultation in September 2013. (<https://www.gov.uk/government/consultations/making-public-sector-procurement-more-accessible-to-smes>).

These reforms include new transparency obligations on all Contracting Authorities (with a few exceptions listed below,) which will mean that new public sector opportunities will be available in one place, the Contracts Finder portal. In addition contract award information relating to the winning contractor will also be available on Contracts Finder.

The Contracts Finder portal has been fully redeveloped and will be launched on 26th February 2015 [[insert hyperlink to the portal](#)]

2. The new requirements

Contracting Authorities are required to ensure that any new procurement opportunities, above thresholds, are published on Contracts Finder (in addition to, or instead of any other portal or publications route they may currently use).

Once a contract has been awarded as a result of a procurement process, Contracting Authorities must also publish 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 or voluntary sector organisation.

3. Thresholds for publishing opportunities

The threshold for publishing is £10,000 contract value, for Central Government and £25,000 contract value, for non Central Government Contracting Authorities.

4. Specific requirements for placing contract opportunities on Contracts Finder

The requirement to publish on Contracts Finder applies where a contracting authority advertises an opportunity. Where a contracting authority is satisfied it is lawful not to advertise an opportunity and chooses not to advertise the opportunity at all, for example because it has internal policies such as standing orders which do not require a competition, the requirement to advertise on Contracts Finder does not apply to that contract.

If the opportunity appears on other portals or sites, for example a local portal or the TED portal, the information must also be published on Contracts Finder within 24 hours of the time when it is first advertised. For contracts advertised on TED, the information must be published on Contracts Finder within 24 hours of the time when the contracting authority becomes entitled to publish the notice at national level.

Where a contracting authority has an existing electronic link between their own portal and Contracts Finder, which means that the opportunities (or information contained within) are automatically published on Contracts Finder, this link will normally be sufficient to comply with these new requirements, as long as the advertisement contains the minimum data requirements listed in section 6. The contracting authority remains responsible for ensuring that this is the case.

For below-threshold contracts, the requirement to publish does not apply where a contracting authority is making an opportunity known to a closed group of suppliers who have already been selected onto a Framework Agreement or Dynamic Purchasing System. However the requirement does apply when the contracting authority is in the process of establishing a new Framework Agreement or Dynamic Purchasing System

5. Minimum data requirements for publication

Procurement opportunities

The following information must be published as a minimum

Procurements above EU thresholds

- I. The time by which any interested supplier must respond if it wishes to be considered;
- II. How and to whom an interested supplier is to respond, with appropriate contact details; and,
- III. Any other requirements for participating in the procurement, (e.g. suitability requirements or explanatory information); and
- IV. Procurement documents or the web address at which procurement documents can be accessed.

Procurements below EU thresholds

- I. The time by which any interested supplier must respond if it wishes to be considered. This period must be sufficient to enable interested suppliers to respond to the opportunity and proportionate to the value of the procurement. (Where the contracting authority is seeking a tender response, it is recommended that the minimum time required to submit a tender response is 10 working days.)
- II. How and to whom an interested supplier is to respond, with appropriate contact details etc; and,
- III. Any other requirements for participating in the procurement. (e.g. suitability requirements or explanatory information.)
- IV. Any relevant contract documents, or the web address at which they can be accessed (must offer unrestricted and full direct access to them, free of charge.)

It is recommended that Contracting Authorities, where appropriate, record the relevant information in the fields which are prompted by the system when they log on as buyers, however they may also choose to upload documents containing the required information

Contract award

Once a contract has been awarded contracting authorities are required to publish at least the following information on Contracts Finder. It is recommended that this information is published in the Award Details section.

- I. the full company name of the winning contractor;
- II. the date on which the contract was entered into;
- III. the total value of the contract in pounds sterling; and,
- IV. an indication of whether the contractor is an Small or Medium-sized Enterprise (SME) or a Voluntary Community and Social Enterprise (VCSE) (this information is only required for below EU threshold procurements, see below for definitions).

This information should also be published in relation to contracts awarded as a result of a Framework Agreement (e.g. as a result of a mini competition).

The information must be published within a reasonable time. It is recommended that the information be published no later than 90 calendar days after the contract award date. Where a Contract Award Notice is published on TED, the contracting authority should not publish the notice in Contracts Finder before the time when they are entitled to publish the notice at national level in accordance with Regulation 52 of the PCRs.

There are some exceptions to this requirement, and a contracting authority may withhold contract award information from publication where its release:

- would impede law enforcement or would otherwise be contrary to the public interest;
- would prejudice the legitimate commercial interests of a particular supplier; or
- might prejudice fair competition between suppliers.

Legal advice should be sought in determining whether any information may be withheld.

6. Definitions

'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 concerning the definition of micro, small and medium-sized enterprises; and

'VCSE' means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

7. Exemptions

- Contracting Authorities carrying out devolved functions in Scotland, Wales and 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(b);

- Maintained Schools and Academies are exempt from Contracts Finder obligations.

Key questions and further information

1. What is Contracts Finder?

Contracts Finder is the Government's one stop shop for suppliers to find new procurement opportunities totally free of charge.

It is a critical tool for addressing the Government's transparency commitments. The Public Contracts Regulations require most public sector bodies to advertise their new opportunities and contract award information here, so that all suppliers have better, more direct access to Public Sector work.

Contracts Finder allows users to view and search the Government's pipelines of potential procurement activity and awarded contracts. It also has a new facility to publish information relating to pre procurement dialogue.

2. When will Contracts Finder be ready to use?

The site already exists, but it has been fully rebuilt in response to user feedback. The refreshed system goes live on 26th February 2015. Contracting authorities in central government will be required to use this new system from this date for new procurement opportunities, but contracting authorities outside of central government are only required to use the system from 1 April 2015 (however they are recommended to start using the system as soon as possible).

3. How will I know when Contracts Finder is live?

There will be a notice on the former Contracts Finder site, advising that the site is read-only and re-directing users to the new site.

4. Will I need to register to use Contracts Finder?

If you are a procurer then you will need to register, however this is a simple, one time procedure.

Contracts Finder uses the SID4Gov¹ system as its registration platform, providing shared access across government procurement systems with a single sign-on. If you are already registered on SID4Gov, you can use those sign in credentials to access Contracts Finder, you do not need to re-register.

If you are a supplier you can access and search all of the notices on Contracts Finder 2 without registering. However, if you do register, you

¹ SID4Gov is the new web based portal for supplier registration across the public sector - SID4GOV - which replaced the Sid4Health portal that was switched off on 30 April 2015

can set up a profile (including industry type and location preferences) and access additional features including options to receive email alerts based on your profile and the ability to save your searches. Registration is a simple, one time sign up procedure that is free of charge.

5. How do I register on Contracts Finder 2?

Simply go on to the Contracts Finder homepage and click on the 'Sign In' link.

6. Will the old site be running in parallel with the new Contracts Finder?

No, the old site will close for all new advertisements, as soon as the new Contracts Finder goes live. The old site will then be accessible as a read-only site.

7. Before February 26th, should I post new procurement advertisements and/or award information on Contracts Finder, or wait until the new site is launched?

That is a policy decision for your organisation to make, noting that live information on the old site will not be transferred.

8. Will I be able to access historical notices?

Yes, the old site will remain available as a read-only site for the foreseeable future.

9. What if I have live opportunities on Contracts Finder? Will I have to re-enter this information?

Live notices will not be transferred automatically to Contracts Finder 2. Therefore, if you have a live procurement, which started before Contracts Finder 2 was launched, where you are still anticipating responses, or subsequent activity, we recommend that you leave the advertisement on the old site and publish the contract award information on the new site. Contracting authorities may consider the benefit of delaying publication on new opportunities prior to 26 February until the new system is launched, however this is ultimately a local decision.

10. If a working feed between the portal I currently use and Contracts Finder exists the advertisements will be published automatically – so I don't have to do anything further – is that correct?

Yes, however you need to ensure that the data feed works, and that the minimum data requirements for Contracts Finder 2 have been met. You will want to discuss with your Portal provider.

The Portal providers we have been working with to ensure that the required links and feeds are in place are listed below, but you will need to check with your own providers directly to ensure that there is a direct link:

- Millstream
- BiP
- MultiQuote
- Emptoris
- Bravo Solutions
- In-Tend
- The Source
- Due North
- Achilles
- EU-Supply
- SAP Ariba
- European Dynamics

11. Will there be a link to TED from Contracts Finder ?

No, there is currently no link between these systems, so when you are publishing new, above EU threshold information on TED you will need to ensure that the minimum data required is also published on Contracts Finder. You may have to re-key some information onto Contracts Finder.

We are discussing a long term approach with the TED portal and with portal providers.

12. What are the enhanced features of Contracts Finder?

This new system offers a much enhanced user experience and additional features that are not available on Contracts Finder 1, including:

- o An enhanced search engine that produces more relevant and tailored results for users. We will continue to refine and enhance the search function as increasing amounts of data enter the system, and user needs develop;
- o A place to start pre-procurement dialogues – where you can provide expertise or experience to develop an idea or initiative; and
- o A user interface that is optimised for use on mobiles and tablets.

13. Is there helpdesk support for Contracts Finder?

Yes, there will be a dedicated technical service desk, contact details will be available through the website.

14. I don't use Contracts Finder now, do I have to going forward?

Yes. All contracting authorities will be required to publish their procurement opportunities and contract award information on Contracts Finder from the times set out, regardless of whether they currently use it.

See Procurement Policy Notice here

<https://www.gov.uk/government/publications/procurement-policy-note-0315-reforms-to-make-public-procurement-more-accessible-to-smes>

15. Where do I publish Future Opportunities?

You can publish potential future procurement opportunities on the Future Opportunities tab. On this you can define the opportunity, as well as include basic information, where known, on location, value, start and end date and when more information will be made public. You can also advertise whether an opportunity is suitable for SMEs (Small and Medium Enterprises) or VCSEs (Voluntary Community and Social Enterprises). Finally you can include further information on the opportunity and contact details.

Please note: if you are engaging the market to check interest in a potential future opportunity, you may wish to look at the Pre-Procurement Dialogue (PPD) tab, where details of supplier days and pre-procurement activities can be included.

16. How can I provide feedback?

CF2 includes a feedback button on the initial page and all other pages which allows you to enter ideas, which can be voted on by other users, and which will be fed back to CCS to help guide future development of the site.

17. What do I do if my contract/opportunity is for more than one location?

You can enter a main location when entering your contract/opportunity, and then use the free-text description field to provide more detail of locations affected. You may also wish to highlight locations in your title.

18. How can I make my contract/opportunity more accessible to SMEs/ VCSEs?

You may wish to think about whether you can create lots in your contract that will be more attractive to SMEs or VCSEs – either by size by or by specific skills required. You should also avoid using Pre-Qualification Questionnaires, or use a standard version, unless you have a statutory exemption from requirements. Ensure language is plain, and avoid acronyms and jargon. Any insurance requirements should be realistic, but

not excessive. You may wish to encourage SMEs or VCSEs through pre-procurement activity, which you can also advertise in the Pre-Procurement Dialogue (PPD) tab.

19. Who do I contact if I need more information on any of the above?

Please contact the Crown Commercial Service Help Desk on 0345 410 2222 or email info@ccs.gsi.gov.uk.