


Procurement Policy Note 07/20: key changes and considerations for contracting authorities

This article explains when PPN 07/20 will apply and what action contracting authorities need to take when it does.

 12 November 2020

This article is taken from November's public matters newsletter. [Click here to view more articles from this issue.](#)

On 29th October 2020, the Cabinet Office published Procurement Policy Note ('PPN') 07/20 titled - 'Taking account of a bidder's approach to payment in the procurement of major contracts' – which updates and replaces PPN 04/19 with effect from 1 April 2021.

The provisions of PPN 07/20 are very similar to those in its predecessor PPN 04/19. In summary, the key changes are:

- The 'Pass/Fail' threshold for bidders to reach to demonstrate prompt payment of the suppliers in their supply chain has been increased from 75% to 85%; and
- In relation to framework agreements, bidders must now declare whether they intend to use a supply chain to deliver performance of the contract awarded.

A copy of PPN 07/20, together with its accompanying guidance and a set of FAQs can be found [here](#).

This article explains when PPN 07/20 will apply and what action contracting authorities need to take when it does.

When does the PPN apply?

The PPN applies to all central government departments, their executive agencies and non-departmental public bodies (collectively referred to in the PPN as 'In-Scope Organisations') when advertising high value procurements on or after 1 April 2021.

In-Scope Organisations must apply PPN 07/20 when procuring goods, services and/or works with an anticipated total annual value of at least £5 million (excluding VAT) which are subject to the Procurement Regulations 2015. Similarly, the PPN applies to framework agreements and dynamic purchasing systems, but only where the anticipated value of an individual contract to be awarded under such arrangement is to be at least £5 million per annum (excluding VAT).

What action must be taken?

Where the PPN applies, In-Scope Organisations are to make an assessment of a bidder's payment systems to determine the overall reliability of the bidder's supply chain management with regards to the prompt payment of invoices. If the bidder fails to meet the requisite threshold (outlined below), then they can be rejected from the procurement process unless there are exceptional circumstances as to why the threshold is not met.

Annex A of the accompanying guidance to PPN 07/20 sets out a template set of additional questions which must be incorporated either within section 6.2 of the Standard Selection Questionnaire (when procuring goods and/or services), or as specific project questions within PAS91 (when procuring works), whichever is applicable.

The accompanying guidance also provides an explanation of how the bidder's response to these additional questions should be evaluated.

Prompt payment threshold

The accompanying guidance to PPN 07/20 states that bidders are to provide evidence to demonstrate that they have paid their suppliers:

- In accordance with agreed contractual terms; and
- “Promptly” – meaning 95% of invoices have been paid within 60 days of their receipt.

The above criteria are to be measured over a twelve-month period, and the bidder must demonstrate that they have met both elements in at least one of the two previous six-month periods.

However, the guidance continues that a bidder will still be considered to “Pass” the prompt payment element if they can demonstrate that they have paid at least 85% of their suppliers within 60 days and provided they have an ‘action plan’ which, as a minimum, outlines why they have not reached the 95% standard and how they will achieve this in the future.

Although, where a bidder is below the 85% threshold, then the guidance indicates they should ‘Fail’ (unless there are exceptional circumstances).

Guidance on frameworks

PPN 07/20 now requires bidders to declare whether they intend to use a supply chain to deliver any call off contract that may be awarded under the framework agreement.

If the bidder marks the answer to this question as ‘No’, but it later transpires during the procurement process that the bidder’s situation has changed and a supply chain is to be proposed, then the bidder is to notify the contracting authority immediately. Assuming such a change is permissible, then the guidance confirms that the bidder is to provide answers to the additional questions to demonstrate they meet the Prompt Payment Threshold described above.

What is the impact of this?

Many clients of ours are already asking supply chain questions like this, based on their own supply chain and ethical purchasing policies. They may now find less resistance from bidders, as there is government guidance to point to. The key issue will be working out how to guide bidders to provide the right information and then how to evaluate it in an efficient way – bidders could swamp contracting authorities with paper!

For economic operators, it would be sensible to consider how you currently capture this information about your supply chain and how to package up the relevant information to make it user friendly when submitting tenders.

Contact



Sam Trevorrow

Associate

Sam.Trevorrow@brownejacobson.com

+44 (0)330 045 2531

Related expertise

