



Procurement Policy Note – Procuring steel in major projects

Action Note 16/15 30 October 2015

Issue

The Government is committed to implementing measures that will address any barriers that prevent UK suppliers of steel from competing effectively for public sector contracts.

Procurement decisions should always be made on a quality/cost/risk basis. The new Public Contracts Regulations 2015 (PCRs 2015) provide new flexibilities including considering social and environmental impacts where they are consistent with the Government's overarching priority of value for money.

This PPN provides guidance on how to take account of steel throughout the procurement process and in line with the PCRs 2015. It focuses on:

- signalling the future pipeline of requirements on steel sourcing and best practice in pre-procurement market engagement
- ensuring there is clear visibility of opportunities at sub-contractor level where the source of steel has not been defined by a Tier 1 contractor
- assessing the health and sustainability of potential suppliers in the supply chain at selection stage, including compliance with relevant health and safety and employment legislation
- ensuring that the price or cost calculations are based on an assessment of the whole life cost and not lowest purchase price
- taking account of appropriate social and environmental impacts at the award stage where they are linked to the subject of the contract.

Dissemination and Scope

The contents of this PPN apply to all Central Government Departments, their Executive Agencies and Non Departmental Public Bodies. Together these are referred to in this PPN as 'In-Scope Organisations'. Please circulate this PPN within your organisation, drawing it to the attention of those with a purchasing role.

This Action Note applies to any infrastructure, construction or other major procurement project with a significant steel component, where the overall project requirement has a capital value of £10 million or above.

Timing

In scope organisations should apply the provisions of this Action Note with immediate effect.

Action

The key actions are:

- **Signalling future pipelines of demand for steel**

In scope organisations should, where practical, publish pipeline information on existing channels such as the National Infrastructure Plan. This must set out indicative details of future demand for steel in the overall project requirement.

This will give suppliers greater confidence to plan for the future, and supports a more strategic approach to the management of supply markets. Advance notice allows the market to better prepare and cater for future needs by ensuring that the right capabilities are in place.

- **Effective pre-procurement engagement**

Contracting authorities are required to undertake a sufficient and proportionate level of early market engagement. This is supported by the PCRs 2015. This applies to all in scope procurements, and engagement with the steel industry should be addressed as part of the planning and pre-procurement phase. In-scope organisations should explicitly consider the component aspects of the overall project requirement, including how and when steel inputs will be procured through the supply chain.

This will help to stimulate increased competition and gives potential suppliers a better understanding of the nature of the requirement, intended approach, committed volumes and scale.

Trade bodies such as UK Steel can advise on engaging effectively with the domestic market.

- **Supply chain transparency and advertising supply chain opportunities**

Contracting authorities should:

- a) ensure that Tier 1 contractors, in their tender for the overall project, include supply chain plans setting out, where known, how and from which supplier, steel will be sourced; and,
- b) include a contract condition to ensure that the Tier 1 contractor and its subcontractors openly advertise any remaining supply chain opportunities for the provision of steel (i.e. where no contractual arrangements have been agreed by the date of the main contract award).

A sample contract clause is contained at Annex A.

- **Assessing potential suppliers in the supply chain at selection stage**

At the pre-qualification/selection stage, in-scope organisations should ensure that all key subcontractors responsible for the delivery of steel are compliant with the relevant health and safety and employment related legislation of the country in which they are based.

Where the nature of the supply chain makes this difficult, it may be appropriate to place a contract condition on the Tier 1 contractor to ensure that its sub-contractors and all those in its supply chain are compliant with the relevant health and safety and employment related legislation.

Risk management capability and security of supply throughout the supply chain may also be considered. For example, assurance may be sought that robust, proportionate contingency measures are in place to ensure safe delivery of steel to the authority.

Those suppliers with relevant convictions for offences must be excluded from further participation in the procurement process.

- **Ensuring value for money is calculated on a whole life cost basis**

The award of contracts should be on the basis of the most economically advantageous tender. The price or cost assessment part of the evaluation of bids must be on a whole life cost basis, and the entire cost-effectiveness of the project should be examined, not just the initial price, as set out in the PCRs 2015.

Cost-effectiveness can include the assessment of the cost of transport, insurance, assembly and disposal as well as costs over the life-cycle of a product, service or works, including: costs of use, such as consumption of energy and other resources, and maintenance costs; and costs associated with environmental impacts, including the cost of emissions.

- **Evaluating social and environmental benefits and impacts.**

The new PCRs 2015 provide greater clarity and scope to assess the most economically advantageous tender on a cost-effective basis that explicitly includes environmental and/or social criteria where they are linked to the subject matter of the contract and are transparent and non discriminatory.

Where relevant and proportionate, in-scope organisations should take full advantage of these new flexibilities when letting major contracts such as construction, or infrastructure. Environmental criteria could include the carbon footprint of construction materials. Social criteria could include taking into account the benefits of employment and supply chain activity, including the protection of the health and safety of staff involved in the production process, the social integration of disadvantaged workers or members of vulnerable groups among the staff performing the contract, such as the long-term unemployed, or training in the skills needed to perform the contract, such as the hiring of apprentices.

While this assessment needs to be made on a case-by-case basis, in-scope organisations should bear in mind that in principle, some environmental or social criteria should be capable of being linked to the subject matter of contracts covered by this action note in the majority of cases.

In-scope organisations should also bear in mind that the PCRs 2015 do not contain an exhaustive list of criteria, so in-scope organisations are free to design other criteria as long as they are relevant, proportionate, non-discriminatory and transparent.

Managing contractors' obligations

In relation to all obligations imposed on Tier 1 contractors, in scope organisations are required to ensure that, where appropriate, key performance indicators relating to the contractors' commitments and obligations on steel provision are made transparent, monitored and reported on at the end of the project.

Next steps

As part of the monitoring of this policy, the Crown Commercial Service will share developing best practice. In addition, it will also issue a balanced scorecard that will help in-scope organisations take account of priority themes such as supply chain management, creation of apprenticeships and engagement with smaller firms in procurement decisions, balanced alongside well-established criteria, such as quality, risk and cost. We would welcome feedback in the early stages of the implementation of this PPN in order to inform subsequent initiatives.

Background

The Government wants UK steel companies to be able to compete on a level playing field when applying for public procurement opportunities. The requirements in this PPN are designed to ensure that government applies a more strategic and transparent approach to the sourcing of steel in major projects. This should stimulate greater competition and lead to better value for money, while helping to address the barriers that prevent UK suppliers from competing effectively.

The Government intends to monitor the impact of this PPN and in scope organisations may therefore be asked to report back on progress.

Contact

Enquiries about this PPN should be directed to the Crown Commercial Service Helpdesk (telephone 0345 410 2222, email info@crownccommercial.gov.uk)

ANNEX A

Obligation to advertise supply chain opportunities

Sample Contract Condition

1. The Supplier shall ensure that all Sub-contracts, which the Supplier intends to procure following date of this Contract, and which the Supplier has not, before the date of this Contract, already awarded to a particular Sub-contractor, are:

(a) advertised; and

(b) awarded following a fair, transparent and competitive process proportionate to the nature and value of the Sub-contract.

2. Any Sub-contract awarded by the Supplier pursuant to Clause 1 must contain suitable provisions to impose, as between the parties of the Sub-contract:

(a) requirements to the same effect as those in Clause 1; and

(b) a requirement for the Sub-contractor to include in any Sub-contract which it in turn awards, suitable provisions to impose, as between the parties to that Sub-contract, requirements to the same effects as those required by this Clause 2.

3. For the purposes of Clauses 1 and 2, "Sub-contract" means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract and "Sub-contractor" means any third party with whom (a) the Supplier enters into a Sub-contract; or (b) a third party under (a) enters into a Sub-contract; or the servants or agents of that third party.