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CPD

Procurement Guidance Note
PGN 02/11
(as amended)

Helping Small and Medium Sized Enterprises (SMEs) and Social Economy Enterprises (SEEs) access Public Sector Contracting Opportunities

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PROCUREMENT GUIDANCE NOTES

[Northern Ireland Public Procurement Policy](#) (NIPPP) was approved by the Northern Ireland Executive in 2002. In approving the policy the Executive took the decision that legislation was not necessary to ensure that Departments, their Agencies, non-Departmental Public Bodies and Public Corporations complied with the policy. Instead it considered that compliance could be achieved by means of administrative direction.

These Procurement Guidance Notes are the administrative means by which the Northern Ireland Public Sector is advised of procurement policy and best practice developments. They are developed by Central Procurement Directorate (CPD), in consultation with the Centres of Procurement Expertise (CoPEs), and are subject to the approval of the Procurement Board.

Once endorsed by the Procurement Board, they are issued to Departments for implementation and copied to CoPEs to develop, if necessary, procedures supporting the implementation of this guidance in their particular sector.

CPD is responsible for disseminating advice and guidance to the NI public sector on public procurement policies and for monitoring implementation. Procurement Guidance Notes are also published on the [Department of Finance \(DoF\) website](#).

The following Procurement Guidance Note was endorsed by the Procurement Board and originally issued with effect from 22 June 2011 for use by those bodies covered by Northern Ireland Public Procurement Policy.

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Definition of Terminology

In the preparation of this guide, the term **contractor/supplier** has been used to denote an organisation that contracts directly with a Department, whether it is a supplier, a service provider or a construction contractor.

The term **Department** has been used to refer to those bodies subject to Northern Ireland Public Procurement Policy including Departments, Non-Departmental Public Bodies and Public Corporations. A full list of such bodies is available in Annex A of [Northern Ireland Public Procurement Policy](#).

LIST OF ABBREVIATIONS

CA	Contracting Authority
CIFNI	Construction Industry Forum for Northern Ireland
CoPE	Centre of Procurement Expertise
CPD	Central Procurement Directorate
DEL	Department for Employment and Learning
DETI	Department of Enterprise, Trade and Industry
EU	European Union
GCCG	Government Construction Clients Group
GPC	Government Procurement Card
IDBR	Inter-Departmental Business Register
ISNI	Investment Strategy Northern Ireland
MPMNI	Managing Public Money Northern Ireland
NI	Northern Ireland
OGC	Office of Government Commerce (now part of the Efficiency and Reform Group within the Cabinet Office)
OJEU	Official Journal of the European Union
PQQ	Pre-qualification Questionnaire
SEE	Social Economy Enterprise
SME	Small and Medium sized Enterprises
UK	United Kingdom
VfM	Value for Money

1 PURPOSE

- 1.1 This Procurement Guidance Note is aimed predominantly at procurement practitioners working in the public sector, however, it will also be of interest to public sector staff engaged in the procurement process. The term “purchaser” is used throughout this guidance to encapsulate all public sector staff involved in the procurement process, from the client, to the budget holder to the practitioner. Those involved in the Small and Medium sized Enterprises (SMEs) and Social Economy Enterprises (SEEs) will also find this guidance of value.
- 1.2 The procurement legislation applies equally to SMEs and SEEs. Both SMEs and SEEs have distinct aims and business objectives. Notably, SEEs operate on a “not for personal profit” basis. However, as the issues faced by SMEs/SEEs when competing for public sector contracts are similar in nature, the advice provided in this Procurement Guidance Note is equally applicable to both sectors.
- 1.3 This Guide seeks to:
- explore some of the issues that can make it difficult for SMEs and SEEs to participate in public sector tender competitions; and
 - suggest actions that purchasers might take to reduce or eliminate these barriers.

2 BACKGROUND

- 2.1 The public sector¹ in Northern Ireland (NI) spent approximately £2.74 billion² in 2012 – 2013 on goods, services and works. Suppliers³ play an increasingly important part in delivering the core business of the NI public sector. While

¹ This excludes District Councils and other bodies to which NI public procurement policy does not apply.

² Departmental Procurement Expenditure Survey Results 2012 – 2013. <https://www.finance-ni.gov.uk/publications/procurement-activity-reports>

³ In this document, the term “supplier” covers suppliers, service providers, contractors and economic operators.

statistics show that local businesses are successful in winning public sector business⁴ there is concern that in NI's small business economy SMEs and SEEs are missing out and more could be done to increase access for these sectors to bid for public sector business. This view is reinforced in the Committee for Finance and Personnel's Inquiry into Public Procurement in Northern Ireland⁵, published in February 2010.

- 2.2 Removing or minimising barriers to SMEs/SEEs is therefore of prime importance to the NI economy and to the delivery of public services.

3 WHAT IS A SMALL AND MEDIUM SIZED ENTERPRISE?

- 3.1 The European Commission's definition of what constitutes an SME is based on the following criteria: **staff headcount** and either **turnover** or **balance sheet total**⁶. A diverse group of businesses fall into the SME category, ranging from sole traders to established firms and include start ups, partnerships, ethnic-minority-led businesses and social enterprises.
- 3.2 In the NI context, the commonly used definition is that SMEs have less than 250 employees. The table below shows the sub-categories of SMEs ranging from micro to small and medium-sized enterprises as defined by the Department of Enterprise Trade and Investment (DETI).

Enterprise Category	Number of Employees
Micro (a sub-set of small)	< 10
Small	< 50
Medium sized	50 < 250
Large	250+

⁴ 79% of all contracts awarded by Centres of Procurement Expertise in 2012 - 2013 went to Northern Ireland based suppliers, 86% of which were local SMEs.

⁵ http://archive.niassembly.gov.uk/finance/2007mandate/reports/Report_19_08_09R.htm

⁶ http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/index_en.htm

- 3.3 At March 2013, the Inter Departmental Business Register⁷ showed that businesses with total employment of less than 50 accounted for approximately 98% of all VAT and/or PAYE registered businesses with a main (or registered) address in Northern Ireland; 1.5% accounted for businesses with 50-249 total employment and 0.3% accounted for businesses with 250+ total employment. Businesses with total employment of less than 10 accounted for 89% of the Northern Ireland total. Micro-businesses therefore have a particularly prominent place in the local economy.

4 WHAT IS A SOCIAL ECONOMY ENTERPRISE?

- 4.1 The definition of an SEE, as used across Government Departments, includes those organisations “whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners.”⁸ Examples of such organisations include credit unions, housing associations, local enterprise agencies, community businesses, co-operatives, employee-owned businesses, community development finance initiatives, social entrepreneurs and social firms.
- 4.2 The DETI conducted a postal survey in late 2006, the main aims of which were to improve understanding of the profile of SEEs, enable future monitoring of change, and collect baseline data of a known group of SEEs in NI. Although the limitations of the survey made it impossible to quantify the overall size and scale of the sector in NI, it did provide baseline data for nearly 400 SEEs indicating that the sector accounted for a total of some 6,700 paid employees, 5,000 volunteers and a turnover of just over £355 million.

⁷ <https://www.economy-ni.gov.uk/topics/statistics-and-economic-research/inter-departmental-business-register>

⁸ Social Economy Enterprise Strategy 2010 – 2011, DETI.
<https://www.nibusinessinfo.co.uk/content/set-social-enterprise>

5 SO WHAT ARE THE BARRIERS PERCEIVED BY SMEs/SEEs WHEN TRYING TO WIN PUBLIC SECTOR BUSINESS?

5.1 Many potential suppliers, including small and micro firms, may be discouraged from tendering for public sector contracts because of a number of perceived or real barriers. These are set out below. Many of these also featured in evidence given by the sector to the Committee for Finance and Personnel's Inquiry into Public Procurement in Northern Ireland⁹. They include:

- Not being able to source information about opportunities, including sub-contracting opportunities;
- A belief that the processes involved in bidding are unnecessarily complex and costly;
- Not understanding the requirements fully;
- Even if they do bid SMEs/SEEs don't always get through the initial selection stage and public sector purchasers sometimes perceive a risk of contracting with small and micro businesses and social enterprises, where their value can be misunderstood and overlooked;
- Current trends in government procurement towards larger and longer term contracts, and rationalising the number of suppliers, means that smaller businesses often find the resulting contracts too large for them;
- A belief that framework arrangements have the effect of locking suppliers out of tender opportunities for up to 4 years at a time and depriving small and new businesses of the opportunity to gain experience;

⁹ http://archive.niassembly.gov.uk/finance/2007mandate/reports/Report_19_08_09R.htm

- Cash flow can prevent a small business tendering for public sector contracts for fear that they may have to wait long periods for payment; and
- Not receiving feedback when unsuccessful and so preventing them from improving the quality of future tenders.

6 WHAT CAN SMEs/SEEs OFFER?

6.1 Much can be gained by enabling and encouraging more SMEs/SEEs to compete for public sector business. The benefits to the public sector can include better value for money (VfM), better levels of service, innovative business solutions and increased competitiveness in the longer-term. In return SMEs/SEEs can gain by having access to a large and stable market and with experience grow and compete successfully for business within and outside of NI.

6.2 SMEs/SEEs can often offer better VfM than larger suppliers by:

- **Bringing greater competition to the marketplace.** This helps to drive down costs;
- **Lowering costs.** They have smaller administrative overheads and management costs than larger firms. Depending on the nature of the procurement, this may result in lower prices;
- **Innovation.** They can bring innovation through, for example: the early exploitation of new technology, providing goods or services in new or underdeveloped markets, or by using innovation to differentiate themselves from established market players;
- **Responsiveness.** They have short management chains and approval routes, so they can respond quickly to changing requirements. They may

also be highly focused on particular markets making them particularly responsive to changes in those markets;

- **Flexibility.** They may be more willing and able to tailor goods, services or works to meet specific customer needs than a large firm that sells an established commodity;
- **Quality of service.** They can often offer higher personal levels of service to the client; and
- **Specialism.** Many SMEs/SEEs survive by supplying specialist products or services that larger suppliers find unattractive, for example because of limited demand.

7 HOW PUBLIC SECTOR PURCHASERS CAN REMOVE BARRIERS TO SMEs/SEEs COMPETING FOR PUBLIC SECTOR BUSINESS

7.1 In this section we will look at each of the barriers being faced by SMEs/SEEs already referred to in Paragraph 5.1 and suggests a number of possible approaches Public Sector purchasers can take to remove these barriers or reduce their impact. Many of the suggestions made are best practice and should be applied when dealing with all suppliers. More general advice for practitioners on a range of other topics is available from Central Procurement Directorate's (CPD's) website¹⁰.

7.2 The barriers and suggested mitigating actions are as follows:

7.2.1 Not being able to source information about opportunities, including sub-contracting opportunities.

¹⁰ <https://www.finance-ni.gov.uk/topics/procurement>

7.2.1.1 The Barriers for SMEs/SEEs

- Searching contract notices in the Official Journal of the European Union (OJEU) is difficult for suppliers who are not familiar with the specialised terminology used;
- They may not have the resources to search the OJEU regularly and may find some commercial OJEU-searching services expensive;
- Lower value procurement (ie below £30,000) may not be advertised widely, and there is no single place to look for them. This can also apply to sub-contracting opportunities;
- Marketing resources are often limited within SMEs/SEEs, making it difficult for them to raise their profile with the large number of potential public sector customers; and
- They often do not know who to talk to about opportunities.

7.2.1.2 What can Public Sector Purchasers do to help overcome these barriers?

- Research the market. Develop an understanding and appreciation of the market place, current suppliers, and potential suppliers who are capable of bidding on the contract;
- Support 'Meet the Buyer' events to increase suppliers' awareness of public sector procurement processes and where to find information on tender opportunities;
- Ensure that all procurement opportunities in excess of £30,000 (including those above the EU threshold in the OJEU) and below the EU thresholds are advertised on eTendersNI¹¹;

¹¹ <https://etendersni.gov.uk/epps/home.do>

- Encourage public sector customers, Departments and other bodies which fall under NI Public Procurement Policy, to provide links from their websites to eTendersNI;
- Encourage main contractors to advertise sub-contracting opportunities in the press, where possible;
- Make OJEU advertisements clear and concise and give a full description of the goods, services or works sought;
- Publish contact details for further information on specific opportunities;
- For low value supplies and services contracts under £30,000, follow the guidance on [Procurement Guidance Note 04/12](#) which specifies the number of tenders or quotes to be requested. Use can also be made of the categorisation on eTendersNI. As part of the registration process, suppliers can specify the categories of procurement against which they would be interested in providing supplies and services. eTendersNI can then be used to help identify which suppliers could deliver the supplies, services or where appropriate works required. Reference can also be made to social economy enterprise Trade Directories such as [Buy Social NI](#) ; and
- e-quotes is an electronic service which allows accepted suppliers to bid for printing work specified by CPD's clients. Suppliers can obtain an e-quotes pack by e-mailing communicationsandadvertisingsector.cpd@finance-ni.gov.uk. Suppliers should then return the necessary documentation and samples to the Communication and Advertising Sector Team in CPD. After assessment and if accepted, suppliers will be notified of this acceptance and will be forwarded a user name and password to access e-quotes.

7.2.1.3 For construction contracts

- For construction works and services contracts valued below £30,000 contractors and consultants, are selected for invitation to tender from the Constructionline database¹² using its random selection procedure. Constructionline is the UK's database of local and national construction and construction-related suppliers registered to work for public and private sector buyers. Contractors and consultants should therefore be encouraged to register on Constructionline to avail of these opportunities (a charge applies);
- The Investment Strategy Northern Ireland (ISNI) Information Website¹³ also provides the construction industry with up-to-date information on the progress of construction works and services contracts that are in the process of coming to the marketplace. This helps to facilitate workload planning by providing the industry with visibility of forthcoming opportunities for consultants, main contractors, sub-contractors, specialist contractors and the supply sectors; and
- Main construction contractors should be encouraged to publish the opportunities available within their supply chain on their website and/or where appropriate in the local press.

7.2.2. **A belief that the processes involved in bidding are unnecessarily complex and costly.**

7.2.2.1 The Barriers for SMEs/SEEs

- There is a perception that the process is too long and complex which can discourage SME/SEEs from bidding;

¹² www.constructionline.co.uk

¹³ www.isni.gov.uk

- The cost of long tendering processes may be prohibitive;
- Those new to the public sector market may not know what is involved and may have difficulty in understanding requirements and in producing good quality proposals or tenders; and
- Organisations with limited resources may find meeting the demands of public sector procurement processes and timescales too much, and struggle to 'keep up' with larger competitors.

7.2.2.2 What can Public Sector Purchasers do to help overcome these barriers?

7.2.2.2.1 Public Sector Purchasers need to have a thorough understanding of the customer's requirements to help interpret their views to the market place. This may require challenging their views to ensure that all options have been considered for sourcing their requirements, including equality of opportunity and sustainable development options:

- Explain the procurement process and requirements to suppliers at the outset. Only ask for the information needed to inform the selection or evaluation process;
- Support 'Meet the Buyer' events to increase suppliers' awareness of public sector procurement processes and where to find information on tender opportunities;
- The complexity of the procurement process, including the pre-qualification process, should be proportionate to the size and scale of the requirement;
- Follow the guidance in [Procurement Guidance Note 04/12](#) which provides advice on a proportionate approach for all procurements below the EU threshold;

- Where appropriate, consider using Reserved Contracts¹⁴ (Annex A) (above EU threshold) for all or part of specific contracts. Before taking the decision to reserve a contract, you will need to determine if the supplier can meet the customer's requirement, specification and provide VfM;
- Keep tender documentation concise and jargon-free;
- Make use of standardised pre-qualification questionnaires (PQQs) eg use the standard template for shortlisting firms for invitation to tender for works projects commenced after 1 March 2010¹⁵. For goods and services contracts, the relevant questions can be selected from the suite on eTendersNI to suit specific contracts. The complexity of a PQQ should be proportionate to size and scale of the project;
- Set a realistic timetable, let suppliers know what it is and keep them informed of any changes. This allows them to assess their involvement and the cost of bidding. Try to avoid slippage as this introduces additional, unplanned costs for suppliers;
- Bear in mind that suppliers new to the public sector may need longer to respond to requests for information than those with more experience. Take this into account in planning and be prepared for more requests for clarification;
- Where appropriate and comparable, treat public sector and private sector experience equally;

¹⁴ Regulations 20 and 77 of [The Public Contracts Regulations 2015](#), Regulations 38 and 93 of [The Utilities Contracts Regulations 2016](#) and Regulation 24 of [The Concession Contracts 2016](#) refer.

¹⁵ [PQQ Template for Over Threshold Construction Procurement](#)
[PQQ template for Under Threshold Construction Procurement](#)

- Keep financial assessments simple and proportionate to the level of risk in the project. Asking for 3 years accounts is burdensome and can cause problems for new start-ups therefore do not request this information unless it is necessary. In some cases looking at turnover or a credit rating might be enough for small jobs;
- For construction works contracts use a Constructionline category value equal to the annual spend on the contract to assess financial standing¹⁶;
- For construction consultant services contracts use a Constructionline category value equal to the annual fee spend on the contract to assess financial standing²¹; and
- Avoid asking for accreditations and standards if they are not needed.

7.2.3. Not understanding the requirements fully.

7.2.3.1 To get good, well-structured and innovative bids, suppliers must understand your requirement, and purchasers must not be over-prescriptive about how it should be met.

7.2.3.2 The Barriers for SMEs/SEEs

7.2.3.2.1 Problems experienced by suppliers include:

- Lack of clarity and understanding over what is required;
- Criteria, sub-criteria and weightings not being clearly set out in tender documentation;

¹⁶ Registrations with Constructionline streamline the procurement process for suppliers but where a contractor or consultant is not registered with Constructionline they can still apply by submitting accounts/financial information to be assessed by Constructionline.

- Requirements that focus on the solution or a process rather than outcomes which do not leave scope to allow innovative bids to be considered; and
- Over-specification of the requirement or inappropriate requirements for standards conformance – this makes solutions expensive to deliver.

7.2.3.3 What can Public Sector Purchasers do to help overcome these barriers?

7.2.3.3.1 General guidance on producing requirements applies to suppliers of all sizes. When drawing up requirements:

- Support 'Meet the Buyer' events to increase suppliers' awareness of public sector procurement processes and where to find information on tender opportunities;
- Make requirements clear and unambiguous, and avoid jargon. This includes information provided on criteria, sub-criteria and weightings;
- Focus on the outcomes required, not on how they are to be delivered (the 'what' rather than the 'how');
- Where possible avoid over-specifying requirements and thus limiting the potential for suppliers to compete;
- Where appropriate, only specify standards or equivalents relevant to each particular tender, rather than including a standard list as routine;
- Be clear on what the supplier has to do in responding to the requirement: the types of information required, the format of the response, and the deadline for receipt; and
- Provide a contact point for suppliers requiring further information. Ensure the contact point is staffed, ideally by the same people, and all enquiries get a response.

7.2.4 Even if they do bid SMEs/SEEs don't always get through the initial selection stage and public sector purchasers sometimes perceive a risk of contracting with small and micro businesses and social enterprises, where their value can be misunderstood and overlooked.

7.2.4.1 Failure to select the right suppliers at the pre-qualification stage, runs the risk of closing off potentially excellent, innovative, Best VfM solutions later. On the other hand, simply relaxing the selection criteria will allow more suppliers (including SMEs/SEEs) to get through, with each supplier having a reduced chance of winning the business.

7.2.4.2 The Barriers for SMEs/SEEs

- They may be relatively new and may not therefore have an extensive track record;
- They may not be able to provide several years of audited accounts;
- They may also, by virtue of their size, have limited capacity; and
- They feel these factors will count against them at pre-qualification if evaluation is weighted heavily in terms of large, established and well experienced companies, or if contract limits (derived from a percentage of turnover) are rigorously applied.

7.2.4.3 What can Public Sector Purchasers do to help overcome these barriers?

- Support 'Meet the Buyer' events to increase suppliers' awareness of public sector procurement processes and where to find information on tender opportunities;

- It is important to select suppliers that are financially sound and capable of delivering the solution. However, this does not necessarily mean the largest suppliers with the most extensive track record;
- Set financial standing levels with reference to the annual value of the contract. For example, to be eligible¹⁷ to tender for a construction works or services contract, a contractor's Constructionline Category Value (notation for a particular category of work) must be at least equal to the annual projected spend on works (or fee spend in the case of a consultant) under the contract. This will be assessed on a pass/fail basis. Further details are available in the Procurement Task Group Report Addendum 1 March 2010;
- Do not value public sector experience higher than that gained in the private sector. Remember, the overarching requirement is Best VfM;
- For goods and services, the turnover and insurance levels should be set with reference to the value of the contract and the degree of risk of each contract rather than using standard terms.

7.2.5. Current trends in government procurement towards larger and longer term contracts, and rationalising the number of suppliers, meaning that smaller businesses often find the resulting contracts too large for them.

7.2.5.1 The drive for greater efficiency in public sector procurement has resulted in a trend to replace many small contracts with fewer larger (and longer) contracts and framework arrangements. These can bring benefits, sometimes in terms of better value, but also in reduced procurement and contract management costs, single points of contact when problems arise, and a closer working relationship with the supplier.

¹⁷ Registrations with Constructionline streamline the procurement process for suppliers but where a contractor or consultant is not registered with Constructionline they can still apply by submitting accounts/financial information to be assessed by Constructionline.

7.2.5.2 However, larger contracts do not necessarily deliver Best VfM, and Departments need to consider the impact of procurement strategies on the supply base. For example, smaller companies may be unable to bid for large contracts for capacity or geographical reasons – despite sometimes being able to offer innovative products or services, specialist or niche offerings and a more responsive service through direct access to decision makers within their organisations.¹⁸

7.2.5.3 The Barriers for SMEs/SEEs

- Small suppliers, who have recently entered the market or have successfully contracted in the past and provided good service, may not be in a position to bid for larger contracts.

7.2.5.4 What can Public Sector Purchasers do to help overcome these barriers?

- Consider the procurement strategy to be used, and in particular the scope of the procurements:
 - (i) Are there elements best left outside the main contract which could best be met by small businesses? Purchasers should however bear in mind the requirement of [The Public Contracts Regulations 2015](#), [The Utilities Contracts Regulations 2016](#) and [The Concession Contracts Regulations 2016](#) to avoid splitting a requirement into separate tenders to avoid the OJEU thresholds;
 - (ii) Could the contract be divided into lots? (If so be clear in the tender documentation how the requirement is to be divided).
- Sub-contracting - Although SMEs/SEEs may not be in a position to be a main contractor, there are opportunities for them to be sub-

¹⁸ The demand and supply side issues of aggregation are discussed further in the OGC Guidance entitled “Aggregation – Is bigger always better?” available at [OGC - Aggregation - Is Bigger Always Better](#)

contractors, particularly where they can provide specialist products or services. The choice of specific sub-contractors is a commercial decision and rests with the main contractor. It is, however, appropriate to consider the supplier's subcontract management arrangements and ensure there is visibility of the supply chain;

- There are other things that can be done to help:
 - (i) In large procurements smaller suppliers may express an interest, not because they are planning to be a main contractor, but because they are interested in sub-contracting opportunities. Open supplier meetings provide a forum for potential main contractors and sub-contractors to get together as well as find out more about the project;
 - (ii) The award notice published in the OJEU, will be a source of information for small firms interested in sub-contracting;
 - (iii) Incorporate a clause in contracts requiring the main contractor to advertise sub-contracting opportunities, where possible;
- Be open to consortium bids from SMEs/SEEs as this is one way in which small businesses can tackle large procurements (more information on consortium bids is available at Annex B); and
- Encourage main contractors to adopt supply chain management practices that integrate, incentivise and reward good performance throughout the supply chain.

7.2.5.5 For construction contracts

- Familiarise yourself with the agreement reached by GCCG with respect to monitoring main contractors' delivery of commitments to:

- (i) openly advertise supply chain opportunities;
- (ii) administer subcontract tender processes in a fair and transparent manner that represents Best VfM;
- (iii) use subcontract conditions that are fair and reflect the terms and conditions of the main contract;
- (iv) adhere to the 'Code of Practice for Government Construction Clients and their Supply Chains'¹⁹; and
- (v) provide Government Construction Clients with open book access to supply chain accounts to allow payment progress through the supply chain to be periodically verified.

7.2.6 A belief that framework agreements have the effect of locking suppliers out of tender opportunities for up to 4 years at a time and deprive them of the opportunity to gain experience.

7.2.6.1 As with all large contracts framework agreements can bring benefits including economy of scale pricing, simplified ordering, reduced procurement and contract management costs, and greater flexibility to the public sector purchaser. Framework agreements can be beneficial to SMEs/SEEs that have secured contracts however, the widespread use of framework arrangements can also cause considerable difficulties for many SMEs/SEEs.

7.2.6.2 The Barriers for SMEs/SEEs

7.2.6.2.1 The particular problems for SMEs/SEEs arising out of framework agreements are as follows:

¹⁹ <https://www.finance-ni.gov.uk/articles/code-practice-government-construction-clients-and-their-supply-chains>

- They often do not understand them or how to bid for them;
- They are often too big for them to bid for;
- Not being selected for frameworks agreements may reduce future opportunities for SMEs/SEEs to win work and gain experience; and
- Framework agreements can last for up to 4 years which will inhibit new or diversifying businesses from entering the market. Framework agreements awarded by Utilities can last even longer as there is no limit on their duration.

7.2.6.3 What can Public Sector Purchasers do to help overcome these barriers?

7.2.6.3.1 When establishing framework agreements consider:

- Holding awareness sessions to explain the operation and requirements of the framework agreements and the process to be undertaken;
- Advertising widely to maximise the potential bidders;
- The benefits of including small suppliers, particularly for more specialist items and niche products or services;
- The optimum number of suppliers (too many and there is a loss of economy of scale whereas too few reduces choice);
- Splitting the framework agreements into lots to encourage small or specialised businesses;
- Encouraging consortium bids (Annex B); and

- Encouraging supply chain management and visibility of the supply chain.

7.2.7 Cash flow can prevent a small business tendering for public sector contracts for fear that they may have to wait long periods for payment.

7.2.7.1 The Barriers for SMEs/SEEs

- Excessive delay in making payment for work done can cause problems particularly in relation to cash flow.

7.2.7.2 What can Public Sector Purchasers do to help overcome these barriers?

- Consider whether staged or interim payments (linked, for example, to work done) are appropriate. Further information on public sector organisations' expenditure and payments is set out in Managing Public Money Northern Ireland (MPMNI)²⁰;
- The public sector is obliged to pay suppliers within 30 days of receiving a valid invoice or other agreed contractual terms, but even within such targets, paying as soon as possible can help cash flow. In November 2008, the Minister for Finance and Personnel made a commitment to speed up the payment process on presentation of a valid invoice. NI Departments will therefore aim to pay suppliers, wherever possible, within 10 working days. Where the main contractor benefits from earlier payment, and on presentation of a valid invoice, this should be passed on to sub-contractors;
- The Construction Industry Forum for Northern Ireland (CIFNI) has agreed that the Code of Practice for Government Construction Clients and their supply chains will include a Fair Payment Charter and a

²⁰ A.4.6 refers: [Managing Public Money NI](#)

requirement that first tier subcontractors provide feedback to the Government Construction Clients on payment progress from the main contractor to the supply chain with effect from 1 March 2010²¹; and

- Consider using the Government Procurement Card (GPC) as a mechanism to ensure prompt payment to suppliers.

7.2.8. Not receiving feedback when unsuccessful and not improving the quality of future tenders.

7.2.8.1 Realising the benefits SMEs/SEEs can bring will only happen if they submit good, well structured bids. Giving feedback on why a bid was unsuccessful is vital in allowing a company to improve its bid technique, and to increase its chances of being successful in future.

7.2.8.2 The Barriers for SMEs/SEEs

- When they have been unsuccessful, feedback has either not been provided, or is not particularly helpful.

7.1.8.3 What can Public Sector Purchasers do to help overcome these barriers?

- It is a requirement under the Public Contracts Regulations 2015 to provide feedback and it should always be given if requested, even for contracts below the EU threshold; and
- CPD has produced guidance which sets out a common public sector approach to information to be disclosed to economic operators, which takes account of the Regulations and in particular the rules in relation to the standstill period.

²¹ <https://www.finance-ni.gov.uk/publications/code-practice-government-construction>

8 SUMMARY

- 8.1 This Procurement Guidance Note has outlined the advantages of dealing with small firms, as well as exploring some of the barriers they can experience when competing for public sector contracts. It has also identified steps that procurement staff can take to ensure that there are no barriers to SMEs/SEEs that offer VfM securing public sector contracts.

9 FURTHER INFORMATION

- 9.1 Additional useful websites and sources of information are listed at Annex C.

- 9.2 Any queries on this Procurement Guidance Note should be addressed to:

Procurement Policy Branch
Central Procurement Directorate
2nd Floor East
Clare House
303 Airport Road West
Belfast, BT3 9ED
Phone: 028 9081 6518
Email: procure.policy@finance-ni.gov.uk

Construction Procurement Policy Branch
Central Procurement Directorate
2nd Floor East
Clare House
303 Airport Road West
Belfast, BT3 9ED
Phone: 028 9081 6871
Email: ConstructionProcurementPolicy@finance-ni.gov.uk

RESERVED CONTRACTS

- 1.1 Regulation 20 of [The Public Contracts Regulations 2015](#)²² permits Departments to reserve the right to participate in all public contract award procedures:
- to sheltered workshops or suppliers whose main aim is the social and professional integration of disabled or disadvantaged persons; or
 - to be performed in the context of sheltered employment programmes.
- 1.2 The above are permissible provided at least 30% of the employees are disabled or disadvantaged persons it is specified in the contract notice. Such 'reserved' contracts must be open to all relevant suppliers with rights under the directive
- 1.3 Regulation 77²³ allows Departments to reserve certain services contracts (mainly social, health and educational) to organisations that meet **all** of the following conditions:
- has as their objective the pursuit of a public service mission linked to the delivery of these services: and
 - reinvests profits to meet this objective (where profits are distributed this should be based on participatory considerations): and
 - owned/managed on the basis of employee ownership/participatory principles or the active participation of employees, users or stakeholders; and

²² See also Regulation 38 of [The Utilities Contracts Regulations 2016](#) and Regulation 24 of [The Concession Contracts Regulations 2016](#)

²³ See also Regulations 93 of [The Utilities Contracts Regulations 2016](#)

- not have been awarded a contract for the services concerned by the Department concerned pursuant to this reservation within the past three years.
- 1.4 The 'reserved' contracts referred to in para 1.3 must be open to all relevant suppliers with rights under the Public Contracts Directive and there must be a call for competition in OJEU which must make reference to Article 77 of the Directive. Such contracts will be awarded using a 'light touch' regime (Regulations 74 – 77) and must not exceed a duration of three years.
- 1.5 The Disability Discrimination Act 1995 (DDA) defines²⁴ a disabled person as someone with “a physical or mental impairment which has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities.” Further advice can be sought from the Department for Communities (DfC)²⁵ on whether or not your organisation can be classified as a supported factory or business.

²⁴ Changes to coverage of the definition of disability were made to the DDA by the Disability Discrimination (Northern Ireland) Order 2006. This came into effect on 31 October 2007.

<http://www.legislation.gov.uk/nisi/2006/312/contents/made>

²⁵ Disability Employment Service <https://www.communities-ni.gov.uk/topics/finding-employment>

CONSORTIUM BIDS

- 1.1 The use of a consortium may provide a suitable alternative route for SMEs/SEEs to bid for public sector contracts.
- 1.2 A consortium, in public procurement terms, describes a group of suppliers who come together to bid for a contract. While the term is often used where formal legal and financial arrangements exist between the participants, this is not a necessary condition for the consortium to be able to bid for public contracts. Any informal grouping of suppliers can bid as a consortium and the EU Procurement Directives provide that consortium bidding for a public contract can be assessed based on the collective capabilities of all of the participants in the consortium.
- 1.3 The Department however needs to be confident that the consortium members can work together in the manner required and this can be tested through appropriate questions in the selection process.
- 1.4 Clear descriptions of the capabilities required in contract documentation will help suppliers identify how they can combine their skills to best effect. Where a Department awards a contract to a consortium, it may, if it is justified for satisfactory performance of the contract and before entering into a contract or as a term of the contract, require the consortium to form a legal entity.

USEFUL WEBSITES

(THIS IS NOT AN EXHAUSTIVE LIST)

UNITED KINGDOM

Central Procurement Directorate (CPD) <https://www.finance-ni.gov.uk/topics/procurement>

CPD provides a professional procurement service to the NI Government Departments, their Agencies and other public sector bodies in respect of a wide range of supplies, service and construction works. This ensures Best value for money, legal compliance and competitiveness. Current tender opportunities are advertised on the CPD website.

Department for Communities

<https://www.nibusinessinfo.co.uk/content/disability-employment-service>. The Disability Employment Service can be contacted via the link above.

Enterprise Europe Network <http://www.enterpriseeuropeni.com/inx/>

The Enterprise Europe Network offers a “one-stop shop” for companies seeking to undertake work in Europe.

eTendersNI

<https://etendersni.gov.uk/epps/home.do>

This is an electronic tendering portal which provides increased accessibility for SMEs, SEEs and other potential suppliers who wish to do business with the Northern Ireland public sector.

Managing Public Money Northern Ireland

<https://www.finance-ni.gov.uk/articles/managing-public-money-ni-mpmni>

Provides information on public sector organisations' expenditure and payments.

Northern Ireland Public Procurement Policy Handbook

<https://www.finance-ni.gov.uk/articles/policy-handbook-public-procurement-northern-ireland>

The handbook provides details on the context within which Northern Ireland Public Procurement Policy operates, the structure and operation of procurement in the Northern Ireland public sector and the roles and responsibilities of key players within the procurement process.

Northern Ireland Public Procurement Policy

<https://www.finance-ni.gov.uk/articles/introduction-ni-public-procurement-policy-document>

Includes the 12 guiding principles which govern the administration of public procurement and the procurement structures within NI such as the Procurement Board and the CoPEs.

Efficiency and Reform Group within the Cabinet Office

<http://www.cabinetoffice.gov.uk/government-efficiency>

The Efficiency and Reform Group (ERG) works in partnership with HM Treasury and government departments to deliver efficiencies, savings and reforms on behalf of UK taxpayers. ERG aims to save money, transform the way public services are delivered, improve user experience and support UK growth.

ERG replaced the Office of Government Commerce (OGC). OGCs website has been archived but still provides useful background information on procurement regulations, publications and other programmes and initiatives for public procurement.

Office of Government Commerce

<http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/index.asp>;

Crown Commercial Service (CCS)

<https://ccs.cabinetoffice.gov.uk/>

CCS is the commercial function of the Cabinet Office. It develops value for money procurement solutions to help public sector organisations buy more efficiently and effectively. By standardising specifications, where possible, and aggregating spend it delivers significant, sustainable cost reductions for our customers in the following areas of common spend.

Buy Social NI <http://www.buysocialni.org.uk>

Buy Social NI aims to promote opportunities for social economy enterprises to do more business by selling to each other, selling to the public and private sectors and selling to the general public. Entries in the Directory are free to social economy enterprises set up and trading in Northern Ireland.

Winning the Contract

<http://www1.learndirect-business.com/business-courses/winning-the-contract/>

This is a free online course is designed to address the small business knowledge gap on public procurement. Although focused on Great Britain, SEEs will find useful background information and strategies to enable them to compete for public sector contracts.

IRELAND**InterTrade Ireland** <http://www.intertradeireland.com/>

This organisation provides business development initiatives offering companies practical advice and support in targeting new cross-border business opportunities, developing new products and processes and attracting equity investment.

Public Sector Opportunities in the Republic of Ireland

<http://www.etenders.gov.ie/>

This site is designed as a central facility for all public sector CAs to advertise procurement opportunities which currently exist in the Irish Public Sector.

SCOTLAND

www.scotland.gov.uk/procurement/

The Scottish Executive Procurement & Commercial Services Division is responsible for ensuring that public funds are utilised to achieve value for money for the taxpayer.

WALES

www.sell2wales.gov.uk/

Sell2Wales is an initiative from the Welsh Assembly Government helping SMEs work successfully with public sector clients.

EUROPE**Gateway to the European Union**

http://europa.eu/policies-activities/tenders-contracts/index_en.htm

A website which gives an overview of the Public Procurement market in Europe, provides information on various issues such as legislation, tenders and signposts useful links for both buyers and suppliers (includes links to SIMAP and Tenders Electronic Daily).