

# Procurement Policy Note – EU statistics on utilities sector procurement – annual return for calendar year 2012

Action Note 08/13      06 August 2013

## Issue

1. Request for annual statistical returns on utilities procurement contracts awarded in calendar year 2012. This year these should be submitted via an online data-collection system, having first emailed a request for access to the Cabinet Office at; [eustatistics2012@cabinet-office.gsi.gov.uk](mailto:eustatistics2012@cabinet-office.gsi.gov.uk)

## Timing

2. Annual statistical returns should be inputted to the Cabinet Office system by **9 September 2013**.
  - a) Please respond to [eustatistics2012@cabinet-office.gsi.gov.uk](mailto:eustatistics2012@cabinet-office.gsi.gov.uk) including a relevant email address for the person in your organisation responsible for the annual statistical returns by **16 August 2013**, to enable individual invitations to be issued in time. However, utilities are asked to request registration without delay and not wait until that date.
  - b) Utilities are requested to ensure that their returns are entered into the data collection system as soon as possible and no later than **9 September 2013**. Nil returns are required.

## Dissemination

3. Please circulate this document (for action) to those within your department or organisation, with responsibility for collection of procurement statistics, and ensure that this is brought to the attention of any utilities within your departmental area of responsibility. **Please note this exercise is in respect of the utility sector entities only and not for public bodies purchasing utility products or services (gas, electricity, etc).**

## Contact

4. Enquiries about this PPN should be directed to the Service Desk 0845 000 4999 [servicedesk@cabinet-office.gsi.gov.uk](mailto:servicedesk@cabinet-office.gsi.gov.uk).

## Background

5. A detailed outline of the requirements for these statistical returns can be found at Annex 1 below. Detailed instruction for completing the new data input process, (and the allowable list of justifications for the use of the negotiated procedure) will be sent with the registration email, and also be available on request from the Service desk.
6. However, in brief:
  - Below threshold information: The Utilities Contracts Regulations require each utility to produce reports on the total estimated value of supplies, works and services contracts



awarded by the utility in each area of activity to which the Regulations apply, but where the individual contracts are excluded from the Regulations because their estimated value is below the threshold.

- Above threshold information: In addition, utilities undertaking certain activities are required by the Regulations to provide information on contracts above the threshold.
7. A detailed note on the requirements for statistical returns is included at annex 1. The provision relating to the statistics exercise can be found in regulation 38 of the Utilities Contracts Regulations: [http://www.opsi.gov.uk/si/si2006/uksi\\_20060006\\_en.pdf](http://www.opsi.gov.uk/si/si2006/uksi_20060006_en.pdf)

## Detail

### Arrangements for the submission of data

8. Departments and devolved administrations are asked to ensure that utilities in their fields of responsibility are made aware of these requirements and that the necessary information is provided to them for submission of information onto the online data form. The following are deemed to be the responsible departments for specific utility sectors:
- BIS – electricity, gas coal, postal services.
  - DEFRA – water, waterways
  - DfT - rail, buses, trams, ports, airports
  - Devolved Administrations (where not provided for by the above departments).
9. Departments should ensure that online utilities returns are completed no later than 9 September 2013. **Nil returns are required.**
10. Where a department is responsible for obtaining returns from a number of bodies, it will facilitate the process if the returns are inputted into the online forms individually.
11. In notifying the utilities in the areas in which they are most closely concerned, departments and devolved administrations may wish to use the attached Annex to remind them of the:
- Categories of activity;
  - Thresholds that applied in 2012
  - Requirement for completion of above-threshold statistics for some utilities
  - Provision in the Regulations which allow the total value of utilities' sub-threshold contracts to be estimated if necessary.
- Departments are requested to ensure that utilities in their fields of responsibility complete the on-line data forms. . This is a change from previous years, when these bodies submitted their returns to the relevant parent body, for onward transmission to the Cabinet Office. The responsible departments are not required to aggregate and input the individual returns from the bodies for which they are responsible. They are, however, requested to ensure that the bodies for which they are responsible input complete, credible returns, submitted on time.

## Annex 1 – Utilities Procurement: Statistics for 2012

### General requirements

The data collection system to which you will be invited upon our receipt of your relevant email address should be used for completing the statistical returns, including NIL returns. Information is required in respect of each supply, work and Part A service awarded in 2012. All authorities must provide a contact name, e-mail address and telephone number.

In obtaining and preparing returns, utilities should note the following general points:

EU procurement Thresholds applicable in 2012:

<u>Supplies and Services</u>	£347,868
<u>Works</u>	£4,348,350

### (i) Below threshold information

Regulation 38(1)(a) of the Utilities Contracts Regulations 2006 (as amended by SI 2000/2848) requires every utility to report the total value, estimated if necessary, of the works, supplies and part A service contracts awarded by it in the previous calendar year for each relevant area of activity, but which were excluded from the Regulations because their estimated value was less than the threshold. The purpose of the report is to enable the European Commission to monitor the application of the thresholds

The relevant areas of activity are set out in the Schedule 1 to the Regulations:

(Parts A-C) the production, transport or distribution of drinking water, hydraulic engineering, irrigation, land drainage or the disposal or treatment of sewage;

(Parts D-F) the production, transport or distribution of electricity;

(Parts G-L) the transport or distribution of gas or heat;

(Part M) the exploration for and extraction of oil or gas;

(Part N) the exploration for and extraction of coal or other solid fuels;

(Part O) the provision of airport facilities;

(Part P) the provision of maritime or inland port or other terminal facilities;

(Part Q) railway services;

(Parts R-S) urban railway, tramway, trolleybus or bus services, and;

(Part T) postal services

## (ii) Above threshold information

Regulation 38(3) requires utilities undertaking certain activities (see below) to provide information on contracts above the threshold. This relates to contracts awarded in 2012.

Relevant activities as set out in Schedule 1 to the Regulations are:

(Parts A-C) the production, transport or distribution of drinking water, hydraulic engineering, irrigation, land drainage or the disposal or treatment of sewage;

(Parts D-F) the production, transport or distribution of electricity;

(Part O) the provision of airport facilities;

(Part P) the provision of maritime or inland port or other terminal facilities, and

(Part R) urban railway, tramway, trolleybus or bus services;

### Detail on information to be provided

a. Only contracts which were awarded during calendar year 2012 should be included in returns. Contracts for which the award procedure commenced in 2012 but for which the contract was not awarded until 2013 should not be included.

b. Actual or estimated total contract values, exclusive of VAT, should be given. **Please do not include annual figures.**

c. Entities should include contracts which they have themselves awarded. This includes procurements for which another entity or body has acted as an agent. Details of procurements not covered by contracts, for example customer service agreements with gas or water companies, are not required. Purchase orders are regarded as contracts.

d. A number of entities have formed consortia to act as central purchasing bodies. Such consortia are themselves contracting authorities and should submit a return, either under their own name or one of the consortium members.

e. Wherever possible, the price at which a contract was awarded should be used. If this is not possible, e.g. because the contract was for call-offs up to (but not necessarily reaching) a certain value, or contains a variation of price formula or provides the contracting authority with an option to extend - the best estimate of the total value should be used.

f. Where a framework agreement has been awarded in accordance with the rules this should be indicated on the return. The value shown should be the estimated value of anticipated call-offs or the maximum possible value of call-offs. Where more than one framework agreement has been awarded in response to a single requirement utilities should estimate the likely total value of call-offs. Utilities should not report the value of call-offs, either from their own or from centrally arranged frameworks that have been awarded on their behalf. The assumption should be that the authority that has awarded the framework would report the information.

g. Care should be taken to state the nationality of suppliers and not the origin of goods or services. For instance, a contract for foreign built computers bought from a UK dealer or a UK subsidiary of the manufacturer should be treated as a UK contract.

h. CPV codes must be used. The relevant code can be obtained from the contract notice or contract award notice used for the procurement in question. Alternatively they can be

downloaded from the SIMAP website – <http://simap.europa.eu/>. We have had clarification from the European Commission that it is only necessary to include the first five digits of these codes. For example, “15321” is sufficient for procurements for orange juice (CPV 15321100-5).

i. Entities should indicate whether contracts advertised in the Official Journal (OJEU) were awarded under the open, restricted or negotiated procedure. For contracts awarded under the negotiated procedure, and where one of the derogations from the need to publicise the call from competition was applied, the appropriate justification should be given. The text of the possible justifications set out in the regulations will be provided on registration.

j. Contracts that are below the threshold should be included in the detailed returns where they have been advertised because of the aggregation rules. This applies where they are part of a series of contracts for goods of the same type which, in aggregate, exceed the threshold.