



Department for Business, Innovation & Skills

**Small Business, Enterprise and Employment Act: Public Sector
Procurement**

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Regulations about procurement

Aim of the measure:

- Provide the Government with the ability to implement measures in the future, which will remove unnecessary barriers for small businesses and make procurement practices across the entire public sector more streamlined and efficient.

Measure will:

- Provide a regulation-making power to impose duties on contracting authorities. In particular, the Government may use the delegated power to impose duties on contracting authorities relating to:
 - running an efficient and timely procurement process, including, for example, applying Lean sourcing principles to procurement processes or making appropriate use of standard terms of conditions;
 - the process by which contracts are entered into, including, for example, pre-procurement market engagement, applying minimum and / or maximum timescales for carrying out procurement processes, giving appropriate consideration to small businesses within procurement strategies and appropriate debriefing of unsuccessful bidders for contracts;
 - making available, free of charge, information or documents, or processes necessary for any potential supplier to apply for a contract; and
 - electronic invoicing, including, for example, making appropriate use of electronic invoices.

Specific outcomes, impacts and next steps:

- The Government consulted on the use of this power in a consultation launched on 16 October 2014, and subsequently published its response on 12 January 2015 on GOV.UK.
- The Government also published a Policy Statement on GOV.UK on 12 January 2015 and intends to consult further on those areas before deciding how, and when to use this power to make regulations.
- Our aim is that the benefits for small businesses will include:
 - Reduced procurement timescales;
 - Less bureaucratic processes; this makes it easier for small businesses to compete and helps them to grow; this helps the economy as a whole to grow;
 - Reduced bidding costs;
 - More scope for pre-procurement market discussions with the Government and other contracting authorities to help formulate procurement needs;

- Faster invoice processing, and reduced scope for errors, leading to quicker payment; and
 - Improved cash flows.
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- This measure is not designed to place burdens or costs on suppliers.

Investigation of the exercise by contracting authorities of procurement functions

Aims of the measure:

- Provide the Minister for the Cabinet Office or the Secretary of State with a general power to investigate procurement processes and practices carried out by contracting authorities that are within scope, who are not wholly or mainly undertaking devolved functions.

Measure will:

- Place a general duty on contracting authorities in scope to co-operate with investigations
- Place a duty on contracting authorities within scope to respond within 30 days to a notice requesting information or documents, to enable investigations to proceed efficiently
- Provide that the Minister may publish the results of investigations.

Specific outcomes and impacts:

- Since 2011 the Cabinet Office has investigated concerns raised about public sector procurements. In 2013, this role was extended to include conducting spot checks to ensure that procurements are conducted in line with current procurement policy and practice.
- The investigation of referrals and spot checking are done under the Mystery Shopper scheme. So far over 800 referrals and over 500 spot checks have been conducted. Where appropriate, non-binding recommendations are made to contracting authorities and the results of investigation are published on the GOV.UK website.
- Prior to the Act, the Mystery Shopper scheme operated without a formal statutory basis. The Act puts the scheme on a statutory footing. It sets out legal requirements on contracting authorities to provide documents and information and to assist with investigations.
- This measure will support the effective monitoring of whether contracting authorities are engaging in good procurement practice. It will operate against the landscape of changes made to procurement practice, including those introduced by the 2014 EU Procurement Directive and the Public Contracts Regulations 2015, as well as future changes introduced through the delegated power in section 39. This measure should assist contracting authorities in obtaining better value for money through removing barriers in procurement processes and assist a wider range of suppliers, especially small businesses, to bid effectively for public contracts.



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