



New procurement policy: sustainable skills development through major construction and infrastructure projects



The Department for Business, Innovation and Skills (“BIS”) has recently announced a new policy to drive meaningful investment in workforce skills and improve training opportunities. From now on, bidders for major government construction and infrastructure projects will be required to show their commitment to developing the quality of their current and future workforce and will need to meet target levels of workforce training in order to participate successfully in procurement tenders, and to retain any contracts awarded.

In this briefing, we take a look at who will be affected by the new policy, what it means for bidders in practice and why it is important to comply with the requirements.

Social agenda

The Public Contracts Regulations 2015 introduce an overarching commitment to social value in public project investment in the UK. Social factors, such as equality and labour standards, can now be taken into account in evaluating a bid and in deciding who will be awarded the contract.

The BIS announcement develops this social agenda theme by requiring suppliers to invest in high quality training and apprenticeships. The aim is to support economic growth by building a more skilled and productive workforce and reducing the risks of supply constraints and increased labour costs.

Who is affected?

The new policy applies to bidders for major infrastructure and construction projects and programmes with a capital value over £50 million, including infrastructure consultancy services contracts. Procurers of significant projects below the £50 million threshold have also been encouraged to consider implementing the requirements in their selection criteria.

What are the consequences?

From now on, bidders can expect to see:

- **Pre-award requirements:** pre-qualification/shortlisting questions calling for evidence of their commitment to developing and investing in skills, for example, by requiring a proportion of the workforce to be part of an apprenticeship scheme, receiving accredited training or achieving professional registration.
- **Post-award requirements:** concrete obligations and incentivising mechanisms will be placed into contracts mirroring their bid commitments. These requirements will be monitored through the project.

Failure by a bidder to satisfy the pre-award requirements will rule out selection for the project, and any failure to meet commitments made post-award will constitute a breach of contract. In addition, BIS has indicated that contractors' performance on skills requirements may be used to inform future procurement decisions.

The new requirements should not be taken lightly, and it is essential that suppliers start to think about introducing systems to ensure a sufficient number of skills development opportunities are available. This will take time and require investment in resources, so it is well worth a prompt review of current practices and future plans.

Full details of the new policy are available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418713/PPN_06-15_Skills_and_Infrastructure_Projects.pdf.

Contacts

If you would like any further information on the above, please contact John Houlden, Stephanie Rickard or Patrick Parkin in our Procurement team or your usual Burges Salmon contact.



John Houlden

Partner

+44 (0) 117 902 2796

john.houlden@burges-salmon.com



Stephanie Rickard

Legal Director

+44 (0) 117 902 6682

stephanie.rickard@burges-salmon.com



Patrick Parkin

Associate

+44 (0) 117 307 6959

patrick.parkin@burges-salmon.com

Burges Salmon LLP, One Glass Wharf, Bristol BS2 0ZX Tel: +44 (0) 117 939 2000 Fax: +44 (0) 117 902 4400
6 New Street Square, London EC4A 3BF Tel: +44 (0) 20 7685 1200 Fax: +44 (0) 20 7980 4966

www.burges-salmon.com

Burges Salmon LLP is a limited liability partnership registered in England and Wales (LLP number OC307212), and is authorised and regulated by the Solicitors Regulation Authority. It is also regulated by the Law Society of Scotland. Its registered office is at One Glass Wharf, Bristol BS2 0ZX. A list of the members may be inspected at its registered office. Further information about Burges Salmon entities, including details of their regulators, is set out in the 'Who we are' section of the Burges Salmon website at www.burges-salmon.com.

© Burges Salmon LLP 2015. All rights reserved. Extracts may be reproduced with our prior consent, provided that the source is acknowledged. Disclaimer: This briefing gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

Data Protection: Your details are processed and kept securely in accordance with the Data Protection Act 1998. We may use your personal information to send information to you about our products and services, newsletters and legal updates; to invite you to our training seminars and other events; and for analysis including generation of marketing reports. To help us keep our database up to date, please let us know if your contact details change or if you do not want to receive any further marketing material by contacting marketing@burges-salmon.com.