



## Supply Chain Resilience and Diversity

### Purpose

1. This note reminds public bodies of practical steps that should be taken to support supply chains and help reduce the risk of disruption to supplies caused by supply chain vulnerabilities and surges in demand.

2. In the context of supporting supply chain resilience during the pandemic and EU Exit and helping to boost economic recovery public bodies should:

- ensure they have identified higher risk supply chains, bottlenecks and vulnerable suppliers that need targeted action;
- maximise opportunities to engage with the market to build the capability and flexible capacity of both existing and new supply chains;
- engage with key partners, including other public bodies, local economic development and enterprise organisations, to prioritise and target efforts;
- consider action to achieve a positive social impact, assuring and protecting workers' rights within supply chains and achieving employment and skills where possible.

3. Any action should comply with public bodies' sustainable procurement duty obligations to consider and act on opportunities to improve economic, social and environmental wellbeing in the course of their procurement activity, including ensuring a minimum burden on suppliers.

4. The content of this SPPN is not legal advice and should not be construed as such. Public bodies are advised to seek their own legal advice in relation to any questions and issues they may have.

### Summary

5. By using the measures available to them through the procurement process, public bodies can support supply chains in public contracts and reduce the risk of disruption to supplies caused by supply chain vulnerabilities and surges in demand.

- Key considerations include:
  - the influence the public sector in Scotland can have as individual actors or in buying collaboratively;
  - the complexity of acquiring physical access to goods/prompt provision of goods;
  - provenance and transparency to ensure ethical practices in supply chains; and
  - The COVID-19 pandemic has accelerated opportunities for economic development. This SPPN includes examples of how public bodies can further embed the use of public procurement as an enabler of economic development.

## **Background**

6. The COVID-19 pandemic has placed a spotlight on the risks of the continuity of, and disruption to, supplies caused by supply chain vulnerabilities and surges in demand. It has also underlined the potential risk of poor product quality, human rights abuse, and fraud in public contracts. Conversely, we have seen some really innovative activity with Scottish businesses re-purposing their production to support the needs of the Scottish public sector in protecting citizens during this crisis.

7. This SPPN offers practical advice on steps public bodies can take to encourage supply chains and address vulnerabilities to supplies in line with Scottish procurement legislation. It also includes information on a range of procurement initiatives and a range of business support activity underway across Scotland to support supplier development.

## **Experiences from Covid-19**

8. A great deal has been learnt in achieving a supply of personal protective equipment (“PPE”) during the COVID-19 pandemic including increased awareness of where to pay particular attention to supply risks. These include:

- the scope and value of building resilient supply chains;
- the supply of goods that are critical for the provision of public services, e.g. PPE;
- timely delivery of the goods;
- markets that have been subject/are vulnerable to fraud;
- complicated supply chains; and
- the importance of achieving maximum influence in the market for goods and services of this nature.

## **What are the Issues?**

9. It depends on what is being purchased, but the potential for risk can be greater where:

- materials may be scarce;
- a sudden increase in demand from a number of different sources could impact in the availability of certain materials/supplies;
- reduced or restricted freight travel could impact on the availability of supplies;
- there is a complex supply chain or lack of transparency in the supply chain; and
- production is labour intensive and involves low skill processes and low pay occupations.

## **Addressing the Issues**

10. Annex A of the SPPN outlines how these issues can be addressed as part of the procurement process whilst Annex B provides detail relating to economic development opportunities. Annex C contains further sources of information.

## **Action required**

11. Public bodies are encouraged to take action to maximise the opportunities within this policy note to manage and influence supply chain security and to take measures to ensure ethical and fair working practices.

## **Dissemination**

12. Please bring this SPPN to the attention of all relevant staff within your field of responsibility to whom it may be of interest.

## **Contact**

Email: [scottishprocurement@gov.scot](mailto:scottishprocurement@gov.scot)

Post: Scottish Procurement and Property Directorate

The Scottish Government

5 Atlantic Quay

150 Broomielaw

Glasgow

G2 8LU

## The Procurement Process

### How to identify and address issues in public procurement processes?

This section of the SPPN considers what action is recommended at each stage of the procurement process to support supply chain resilience and diversity.

#### **Sourcing Strategies:**

The public sector in Scotland is well resourced with access to huge amounts of spend and contract data at a local, sectoral and national level. As well as forming the basis for decisions on how to optimise opportunities for collaboration by putting in place local, sector or [national contracts and frameworks](#), this data can be used to identify opportunities for market development and to gain a sense of the influence the Scottish public sector has on the market.

The national [sustainable procurement tools](#) provide a starting point for assessing supply chain vulnerabilities. The tools have been designed to help public bodies optimise the economic, social and environmental outcomes of their procurement activity. A series of [supporting guides](#) are also available to help public bodies embed sustainability into their procurement processes. For example, the [Materials Security guide](#) is concerned with the procurement of products or services from sources that are potentially vulnerable to supply disruption.

[Life Cycle Impact Mapping](#) requires you to consider where in the procurement cycle risks and opportunities apply (raw materials, manufacturing and logistics, use and disposal or end of life management), and subsequently how they might be addressed. Specifically, security of supply risks may become apparent when considering raw materials, and manufacturing and logistics stages. When considering impacts during the use of the product/service delivery, it may be important to ensure that maintenance and repair services are readily available indicating a need for accessible, skilled labour.

Market engagement may help public bodies to better understand the supply chain and where in the procurement cycle potential risks and opportunities apply. For example, pre-market engagement and meet the buyer events can help buyers to engage market providers, understand and influence evolving market capacity and capability, supporting the development of sourcing strategies and future-proofed specifications.

Mapping the supply chains of goods being sourced is key to understanding if they are potentially vulnerable to supply chain problems. Identifying those supply chains known to be located in high-risk or not easily accessible locations will enable the public body to prioritise goods, and plan for challenging scenarios, perhaps by identifying sources of supply that do not present the same risks and/or alternative supply chains that will help mitigate risk because, for example, they are shorter/less complex. Demand management and good forecasting, collaboratively where relevant, can assist or support good planning and management of limited products and services.

In any event, public bodies should consider whether existing collaborative Framework Agreements offer a quick and sustainable route to market. Framework managers are often a rich source of information in terms of commodity supply chains, availability and routes to market.

### **Selection Criteria:**

A public body will need to set criteria to assess the capacity, capability and resilience of bidders and can use this stage of the procurement process to identify suppliers that are best placed to meet the requirements of the contract. For example, it may be appropriate to take account of

- the suppliers' technical ability;
- the suppliers' previous experience of managing their supply chain;
- the suppliers' previous experience of managing materials vulnerable to supply disruption relevant to the subject matter of the contract including their supply chain continuity processes and practices;
- the suppliers' quality management systems and how they apply this in practice to their, and their supply chain's, systems and processes; and
- an indication of percentage of contract to be delivered by sub-contractors.

This can be done through the experience related sections of the European Single Procurement Document ("ESPD") parts 4C.1 and 4C.1.2. Bidder responses would provide evidence of applying comprehensive risk management processes to manage security of supply that may arise due to supply chain blockages, labour, other social, environmental factors or crises.

### **Exclusion grounds:**

A public body can exclude a supplier from tendering for public contracts where it falls within a ground for exclusion relating to, for example, fraud, blacklisting, compulsory labour (including in respect of children) or human trafficking and breach of any obligations in the fields of environmental, social or labour law.

In addition, where a public body decides that there may be a risk of exclusion grounds applying to a sub-contractor, the body can verify this at any stage in the procurement process. The public body can do this by insisting the sub-contractors in the supply chain completes an ESPD. Where the evaluation of the ESPD reveals compulsory grounds for excluding the sub-contractor the public body **must** require the prime contractor to replace the sub-contractor. Where the evaluation reveals non-mandatory grounds for excluding the sub-contractor, the public body has the choice whether to require the replacement of the sub-contractor or not.

In all instances, selection and exclusion grounds must be relevant and proportionate to the subject matter of the contract.

### **Specification/Statement of Requirements:**

Specifications should include provisions to ensure quality and security of supply.

Managing supply chain risks might include requiring bidders to demonstrate how they will have a comprehensive risk management process in place to ensure, as much as is possible, security of supply of materials, products or equipment essential to the delivery of the required product/service. This would include supply chain management, sourcing strategies, stock management, assessment of potential risks to supply and appropriate mitigation measures.

Where there is a risk of disruption to supply chains, public bodies may wish to consider whether to require multiple sources for the same 'at risk' product and/or components involved in the supply of that product as a security-of-supply measure. This would then be reflected in the tender evaluation stage of the procurement where the body can award marks based on how bidders respond to this element of the requirement. The public body may want to reassure itself that the bidder will be able to ensure continuity of supply at all times during the contract even if scenarios such as those experienced in the early days of Covid-19 were to apply. In terms of how the bidder would address this, it may mean looking to ensure supply chains from a variety of geographic locations. In either event, the public body may wish to consider any cost implications associated with adding these requirements and/or whether their inclusion may inadvertently create a barrier to the diversity of the supply chain.

Any requirements included should be relevant to the contract and associated supply chain.

There should also be intent on the part of the public body to check compliance with these requirements following award of the contract, which might include audit and or other validation processes.

## Accreditations

A public body can accept an independently verifiable accreditation as evidence that bids comply with relevant environmental, social or other criteria.

Where not all of a standard or accreditation's certification criteria apply to a procurement, it would be more appropriate to provide a full description of the requirements in the tender documentation, instead of asking for the accreditation itself. Additionally, if a specific accreditation is requested, evidence of compliance with an equivalent standard or accreditation must also be accepted.

## **Example specification questions**

The following are examples of questions that could be used to address areas of vulnerability or specific risk identified through analysis of the supply chain.

### Supply Chain Resilience

- The contractor shall demonstrate that they have a comprehensive risk management process in place to ensure, as much as is possible, security of supply of materials, products or equipment essential to the delivery of the required product/service. This should include active supply chain management; resilient sourcing strategies, which might include shorter supply chains and/or multiple geographically dispersed supply sources; business and supply chain continuity plans and processes; stock management approaches; and any other assessment of potential risks to supply and appropriate mitigation measures.
- Are established supply chains in place? If so, describe their reliability and ability to respond to volume demand fluctuations of this contract. If supply chains do not currently exist or are not able to respond to volume demand fluctuations, describe how these plan will be reliably established. [**Note to purchasers** : Depending on available markets, this might include Tier 1 bidders identifying potential suppliers and advertising sub-contracting opportunities through the PCS advertising portal. Bidders should be sign-posted to available economic development support.]
- Is there an established and appropriately skilled workforce (adopting fair work practices) in place to respond to volume demands, If not, describe how the required workforce demands will be met. [**Note to purchasers** : This requirement may allow for targeted recruitment and training opportunities, increasing the positive social impact and contributing to Scotland having a well-educated and skilled workforce. Sample questions relating to sub-contracting opportunities and jobs and training are available from [Employment Skills and Training guidance](#) in the sustainable procurement tools. Add Fair Work question(s), where relevant and appropriate to the contract. An example [Fair Work ITT question](#) is available. Public bodies should adapt their Fair Work questions, and weightings, taking account of what is appropriate, proportionate and relevant to the contract. For example, using market consultation can help

public bodies understand suppliers and their supply chains. Findings from this can identify Fair Work risks and opportunities that can be addressed in the procurement and can establish whether the supply chain is susceptible to exploitative practices. For more information, a link to Fair Work guidance is available at Annex C.]

- The contractor will be expected to ensure the outcomes of any supply chain audits are subject to corrective actions by them or their suppliers in a timely manner, and provide the public body on request with details in its possession or control of any actions taken or proposed to be taken in so far as they relate to their supply chain.

### Ethics

- Within the context of supply chain interruptions and vulnerabilities, the contractor will be expected to demonstrate that it has a comprehensive, on-going and systematic approach to identifying and managing risks relating to employment standards, working conditions and use of child labour in the supply chains relevant to the contract/framework agreement. This should include policy, roles and responsibilities, objectives, targets and programmes, training and awareness, communications (including whistle blowing), documentation and procedures, supply chain management, emergency response, monitoring and reporting (including identification of all suppliers, changes made and audits undertaken in accordance with appropriate standards for example ETI Base Code, SEDEX, or equivalent), corrective action and review.

### **Tender Evaluation and Contract Award**

The weighting to be applied to the evaluation criteria should be determined on a case-by-case basis. In all circumstances evaluation criteria should be framed in a way that provides confidence in the supplier's ability to supply. A public body has discretion to determine what award criteria to apply although any requirements must be relevant and proportionate to the particular procurement and there must be clear methodology to evaluate responses.

Where sustainability of supply is identified as a potential risk for the delivery of the contract, the purchaser needs to carefully assess how best to evaluate the bids in an open and transparent manner that will reflect the importance of security of delivery. Public contracts are awarded on the basis of the most economically advantageous tender on the basis of the best price:quality ratio and public bodies are free to determine the proportions of price v quality, and within that to consider the weighting of each criterion. Weightings are a matter for the body's discretion and provided it is made transparent the market cannot challenge weighting on the basis that the body has allegedly placed too much emphasis on a particular requirement at the expense of another. A public body can, therefore, consider the importance of security of



delivery and allocate a weighting for this element of the quality score that reflects that importance. Please see the [Procurement Journey](#) for more information.

Public bodies may also consider carrying out scenario planning to understand the impact of proposed weighting of the price:quality ratio being considered before it is finalised in the ITT. This should include the individual aspects of the quality element and at what level of weighting these may have a material effect on the overall outcome.

### **Contract Management**

Any potential risks should be monitored and managed through effective contract management processes, including regular contract management meetings. This approach enables mitigating actions where risks have been identified. For example, it may be appropriate to undertake audits, investigate alternative sources of supply, accelerate the introduction of alternative sub-contractors and/or supply or consider increasing stock levels.

The supply chain, associated resilience and continuity planning - and any changes to the supply chain - can be included as a standing item at contract and supplier management meetings as appropriate. Keeping the lines of communication open with suppliers is important, so that the public body remains informed of developments and challenges being faced by suppliers. Both the public body and the supplier will have an understanding of the markets relevant to the contract and, as part of the ongoing dialogue between the public body and the supplier, they should use their collective knowledge of supplies and suppliers as part of any discussions on ensuring continuity of supply.

Public bodies should take particular care to keep supply contracts and framework agreements that are already in place under review to ensure that any potential risks are identified.

## Opportunities for Economic Development

This section of the SPPN considers existing policy and the range of complementary procurement and economic development support available, with examples of where this has worked in practice.

In addition to promoting environmental, social and economic wellbeing, the [sustainable procurement duty](#) in the Procurement Reform (Scotland) Act 2014 requires public bodies to promote innovation and to facilitate access to SMEs, the third sector and supported businesses.

The COVID-19 pandemic has provided an opportunity for Scottish businesses to demonstrate their ability to be flexible, responsive and innovative. Economic growth opportunities may come from encouraging the development or creation of scalable domestic supply chains for goods and services and from encouraging innovation, thus increasing the number of indigenous suppliers to bid for public sector procurement opportunities.

We encourage local procurement teams, local economic teams and Enterprise organisations to collaborate to maximise the economic impact. The rich contract and spend data that the Scottish public sector holds alongside market data from other sources provides a starting point for identifying how these opportunities can be identified and prioritised.

At a local, sectoral, regional and national level there are a range of procurement initiatives and a range of business support activity underway to support supplier and market development. Public bodies are encouraged to take advantage of these initiatives and to remind potential and existing suppliers to do similarly.

Procurement initiatives include:

- Public bodies are required to publish Forward Plans, to enable markets to prepare for opportunities;
- Public bodies are required to advertise all regulated procurement opportunities on the [Public Contracts Scotland website](#), making it easier to find and bid for contracts;
- In addition to the rich spend data already available in the Procurement Data Hub, Scottish Government are testing a reporting tool with targeted City and Regional deals to overlay local market knowledge on our historical spend to help identify opportunities where procurement and local economic development can work together to exploit local economic wellbeing, for

example, by increasing market visibility of procurement opportunities that local businesses can exploit, or by targeting economic development support to industries where there is growth potential.

- Scottish Government encouragement of:
  - Quick Quote – a light-touch, accessible process for lower value opportunities;
  - Giving businesses advance notice of procurements to allow time to bid;
  - Breaking larger requirements into smaller requirements to facilitate access to contract opportunities for smaller businesses;
  - Advertising sub-contracting opportunities in larger contracts; and
  - Prompt payment through the supply chain.

There are also initiatives aimed at encouraging procurement of innovation by public bodies in Scotland:

- The CAN DO Innovation Challenge Fund is a national fund which supports Scottish public sector organisations to find and develop innovative solutions to operational service and policy delivery challenges:

<https://www.openinnovation.scot/support-and-funding/can-do-innovation-challenge-fund>.

- CivTech was set up by the Scottish Government in 2016 and its accelerator programme harnesses entrepreneurial tech innovation – typically from start-ups and SMEs – to solve identified public sector challenges. It provides a pathway for public bodies to engage with tech and innovation possibilities. For suppliers this provides an opportunity to gain a blue-chip client - and grow their business:

<https://www.civtechalliance.org/civtech>

Business Support includes:

- Find Business Support – a website aimed at sign-posting businesses to the support that they need (<https://findbusinesssupport.gov.scot/>)
- Scottish Government funding programmes like [Just Enterprise](#), which provides tailored business support to social enterprises and entrepreneurs;
- Scottish Government funding and supporting the [Supplier Development Programme](#) which runs events and works with partners to help SMEs and third sector organisations win work and grow their business;

- Scottish Government providing guidance on bidding for public contracts through the [Supplier Journey](#)

In complying with the sustainable procurement duty, benefits may accrue from working in partnership with suppliers and from working with smaller suppliers.

Examples include:

- Market influence – The fact that the Scottish public sector collaborates on ICT hardware procurement helped maintain security of supply across the public sector during the COVID-19 pandemic;
- Sub-contracting Opportunities – [SPPN 5/2019](#) encourages the use of PCS as a route to advertising sub-contracting opportunities either on the main site facility or using Quick Quotes. During the COVID-19 pandemic, one of our prime PPE contractors ensured security of supply of medical grade masks and visors through new, in this instance, local sub-contracting activity
- Flexibility – a range of suppliers have re-purposed their production facilities to manufacture a range of safety equipment in response to COVID-19;
- Innovation - potential for taking a new approach to requirements. For example, the CAN DO Challenge Innovation Fund has resulted in success for a small Scottish business in the Transport for Edinburgh 'Driver Innovation Safety Challenge' (DISC): (<https://edinburghtrams.com/news/edinburgh-trams-and-ihf-push-ahead-development-driver-safety-wrist-band>).

## **Where can I go for more information?**

In addition to the links and example questions provided in this document, advice and support is available from:

The [Sustainable procurement tools](#) and supporting [guidance](#) provides information on how to identify and pursue sustainable outcomes at various stages of the procurement process for a range of environmental and socio-economic risks and opportunities. It is our intention to develop these guides to include worked examples reflecting the advice in this policy note.

The sustainable procurement guide on [Materials security](#) is concerned with the procurement of products or services from sources that are potentially vulnerable to supply disruption.

The sustainable procurement guide on [Worker conditions](#) is concerned with the procurement of products, services and works, where there may be concerns about human rights, working conditions and worker exploitation in the supply chain.

For guidance on evaluating fair work practices, including the Living Wage, when selecting tenderers and awarding contracts see [Fair work practices and the award of public contracts: statutory guidance](#). For best practice guidance on how to address fair work through a public procurement process, see [Addressing fair work practices, including the real living wage, in procurement](#). For practical tools to use at key stages of the procurement process see [Fair work practices in procurement: toolkit](#)

[SPPN 09/2016](#): Ensuring compliance with environmental, social and labour laws

[SPPN 5/2019](#): Advertising subcontracting opportunities on the Public Contracts Scotland website

[SPPN 3/2020](#): Reducing the risk of human trafficking and exploitation in the performance of public contracts

[SPPN 6/2020](#): Making best use of procurement resources during COVID-19 outbreak

The [Procurement Journey website](#) is the main source of procurement guidance for the Scottish public sector.