

Dounreay Policy on Addressing Community Benefit Issues in Procurement

Dounreay, like many organisations, is recognising the importance of managing its supply chain in a more responsible way which has led to an increased interest in issues such as community benefit and sustainability.

We are obliged to comply with the Public Procurement Rules (PP Rules) which include the EU Procurement Directives and the UK legislation (the Public Contracts (Scotland) Regulations 2015) that implement the Directives here. Non-compliance with these rules would lead to significant financial and operational issues for us. Non-compliant procurement procedures can also be challenged through the Courts.

With increasing policy emphasis being made on 'community benefits' and 'sustainability', there is however, a risk that contracting authorities may create a preference for "the local supply chain". Such a preference runs a real risk of breaching the PP Rules and so exposing Dounreay to the risk of legal challenge.

We classify our local supply chain as including any suppliers, with a local office in the Caithness and Sutherland area who hire a high proportion of their staff locally.

This policy aims at ensuring that when including community benefit issues in our procurements we do so effectively, but without breaching the PP Rules. These rules include detailed, mandatory steps that must be followed when awarding most 'public contracts' and more general rules (but equally legally enforceable; the principles of '*transparency*'; '*equal treatment*'; '*non-discrimination*'; '*proportionality*' and '*mutual recognition*'). These rules shape all our procurements.

The following indicates what we are, and are not, able to do within the PP Rules, to help achieve our community benefit objectives. It covers key areas in the procurement process where such issues can be considered and also covers issues related to 'sustainability':

- Scope and Specification
- Prequalification and Selection of Suppliers
- Contract Conditions
- Contract Award
- Sustainability

We will consider 'community benefit' and 'sustainability' when compiling subcontract strategies and will act positively when it deems it appropriate and sensible to do so. For example, if creating smaller packages of work (a technique that can often help local suppliers/Small to Medium Enterprises (SMEs) to bid effectively) is not the best strategy for us then it is for the supply chain itself to find alternative ways of bidding, such as forming an alliance, to bid to manage a larger work-package. Value for Money remains a crucial factor in our procurements and we expect the supply chain to continue to help us achieve that.

Scope and Specification

The PP Rules allow us discretion to set the size and technical scope of its contracts, subject to the achievement of transparency, non-discrimination and value for money.

The size and scope of a contract are important considerations because the larger the contract, the harder it is for smaller suppliers to bid.

Subject to the legal principles referred to above and to the rules on valuation of the contract, the PP Rules allow us to award smaller contracts, allowing local, smaller, suppliers a full and fair opportunity to compete for contracts that fit their technical skills and financial resources. Forthcoming changes to the PP Rules will also make it even more important that we do not automatically aggregate our requirements into large contracts.

Dounreay Scope and Specification activities may include the following:

- Larger contracts may, where appropriate, be split into 'lots' to encourage smaller, locally based, suppliers to capitalise on their flexibility, responsiveness and innovative ideas.
- Specifications may be set in performance terms to ensure due weight is placed on important economic advantages of local suppliers. For example, where a quick response time for the supply of a maintenance component is required this should be emphasised via a performance requirement stipulating a delivery window within responsive timescales. The specification will always need to be objectively justifiable.

Advertising the Contract

The PP Rules allow us to engage with the local market (and other suppliers) in pre- procurement activities. However, it is imperative that such pre-procurement activities do not undermine the specification by directing the work towards a single supplier.

Dounreay pre-procurement activities may include the following:

- Giving advance notice of forthcoming contracts via the internet (i.e. 'Procurement Plan')
- Issuing a PIN (Prior Information Notice)
- 'Meet- the- buyer' sessions
- Supplier conferences
- Encouragement of formation of local consortia to bid for larger projects, by local SMEs working together

We may encourage its existing national suppliers to adopt a similar approach, emphasising the considerable skills and experience that smaller local suppliers are able to provide to them. However, telling a supplier who to source or to source locally, is unlawful. We must manage this process systematically, ensuring that the process is fair and above board and care is needed to avoid giving (or creating the impression of giving) local suppliers an unfair advantage.

Prequalification / Selection of Suppliers

The PP Rules allow us to manage the risk of appointing suppliers who do not have the necessary technical or professional skills or whose financial standing is uncertain, by setting out objective and relevant pre-qualification criteria and requiring candidate firms to demonstrate that they meet the minimum standards.

Our approach is to ensure that the criteria and evidence we require candidates to submit at Pre-qualification Questionnaire (PQQ) stage does not inadvertently act as a barrier against entry into this market by SMEs.

Our prequalification processes will therefore take into account the following:

- The extent of the information requested and whether it can be simplified or limited. Asking for too much information at this stage could discourage smaller suppliers from applying. There must be an objective reason for each question asked and it must be relevant to the proposed contract. Our aim is to avoid overcomplicated selection requirements;
- Use of standard questions in PQQ;
- Electronic storage of all responses centrally by Dounreay using Complete Tender Management (CTM). This would avoid costly duplication of effort for all suppliers.
- Non-discriminatory selection criteria set by Dounreay. For example, we cannot require previous experience as a supplier to Dounreay but could request relevant nuclear sector experience;
- Information on the Caithness Chamber of Commerce will be added to the tender documentation in order that suppliers have details for sourcing local contractors; and
- An outline plan may be requested, at Invitation to Tender (ITT) stage, stating the extent of local community benefit anticipated by the Contractor should their submission be successful.

Contract Conditions

The PP Rules allow contract conditions relating to the performance of the contract to include relevant social considerations (subject always to the principles of equal treatment, etc.). Examples of possible contract provisions include:

- That the supplier must train a certain percentage of employees to certain craft skill levels;
- That the supplier is to take positive action to encourage local labour to apply for jobs on direct Dounreay contract work; and
- That the supplier is to encourage local SMEs to apply for sub-contract work on Dounreay contract work

When implementing such contract conditions, we must take care to ensure that the specific terms are not discriminatory. For example, it would be unlawful to include a term that only local labour may be used in the performance of the contract.

Contract Award

Our contracts are awarded on the basis of the 'Most Economically Advantageous Tender' (MEAT) or Lowest Price Technically Acceptable (LPTA). These are the 'headline' award criteria.

We have some discretion to set the non-Price criteria (i.e. the criteria relating to 'Quality') to contribute to its community benefit goals. We are able to build in relevant 'social value' to the award criteria provided this is made clear in the OJEU notice (or 'contract documents') and complies with the PP Rules.

This allows us to balance social value against other technical and commercial 'value' aspects which could lead to greater opportunity for the local supply base. However, such criteria must avoid creating any unfair preference for the "local supply chain".

We do not add a weighted section for community benefit to the primary assessment criteria. If deemed appropriate, it is added to the secondary assessment criteria.

More detail regarding the process for identifying, implementing, monitoring and reporting Community Benefits in DSRL contracts is given Appendix A to the Procurement and Supply Chain Strategy.

Sustainability

By purchasing wisely, contracting authorities can promote employment opportunities, social inclusion, accessibility, ethical trade and seek to achieve wider compliance with social standards.

The value of procuring in ways that are 'sustainable', 'green' or 'responsible' is now widely acknowledged and, as a result we incorporate sustainability, wherever possible, into our procurements and supply chain management. The PP Rules have similar effect in this context too.

Dounreay sustainability considerations will include the following:

- Incorporation of sustainability into the procurement strategy. For example, we will consider the use of remote work and meetings instead of travelling extensively;
- Incorporation of sustainability into the specification. The specification used must impact on performance characteristics of the product or service. To illustrate this, in general terms for example, it is acceptable to specify organic food because it relates to the characteristics of the product. It is not acceptable to specify 'fair trade' food because this relates to the workers producing the product and not the product itself;
- Exclusion, at the selection stage, of suppliers with environmental / social / gross misconduct convictions;
- Qualification must relate to the subject of the contract and fit within technical / financial capacity;
- Although we have considerable discretion to set the award criteria, it must relate to the contract and must be objectively quantifiable. It must also be capable of transparent assessment and verification.
- We will continue to ask for accreditation to ISO14000 or its equivalent. If this has not been achieved then we will consider evidence of working towards this standard.