



Llywodraeth Cymru
Welsh Government

GUIDANCE

WPPN 01/21: Sourcing steel in major construction and infrastructure projects in Wales

How public bodies should plan for and specify requirements when buying steel - this updates the 2018 PAN of the same name.

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Well-being of Future Generations Act's well-being goals supported by this WPPN



- A prosperous Wales
- A resilient Wales
- A more equal Wales
- A globally responsible Wales

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Points to note

- The information set out in this document is not legal advice and is not intended to be exhaustive – contracting parties should seek their own independent advice as appropriate. Please also note that the law is subject to constant change and advice should be sought in individual cases. This document reflects the position as at February 2021.
- This Welsh Procurement Policy Note (WPPN) builds on, and is consistent with, the Wales Procurement Policy Statement and the Public Contracts Regulations 2015 that remain unaffected by the UK Statutory Instrument (SI) no: 1319 The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020, effective from 1 January. The SI corrects deficiencies arising from the UK's exit from the EU and implements the relevant aspects of the UK/EU Withdrawal Agreement.
- The note therefore assumes a certain level of knowledge of public procurement. It is available via the Welsh Government website Gov.Wales and any queries should be directed to CommercialPolicy@gov.wales or via the [Welsh Government customer services](#).

1. Issue

An update of the [2018 Supporting the sourcing of steel in major construction and infrastructure projects in Wales PAN](#), this WPPN addresses public procurement actions to support the strategically important steel sector in the UK.

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2. Dissemination and scope

This PAN is directly applicable to all contracting authorities whose functions are wholly or mainly Welsh devolved functions and is to be applied any major procurement project following publication of this Note where steel is a 'critical component' ('critical component' is considered to be a structural steel product(s) such as steel frames; reinforcing bars).

There is no set value as to what constitutes a major procurement project, as this will differ between contracting authorities. It is, therefore, for contracting authorities to determine which of their procurements are, 'major' projects.

Major projects in which steel is likely to be a critical component, may include, but not be limited to the following:

- Infrastructure – such as rail and roads
- Construction – such as the building of and or refurbishment of prisons, hospitals, universities, housing, community centres, bridges and schools, and
- Flood defences.

The PAN should be circulated (for information) within your organisation, particularly drawing it to the attention of those with a procurement or contract management role.

3. Background

The British steel industry directly employs over 32,000 people in high skilled and high paying jobs and supports a further 40,000 jobs in UK supply chain (source ONS Type 1 FTE multiplier of 2.26 quoted in **COVID-19 – RESTART AND RECOVERY: A Policy Proposals Paper**, UK Steel May 2020), continuing to be strategically important to the UK economy as both a major employer and supplier of quality steel products.

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The 2016 Public Procurement of Steel report identified opportunity to support the steel sector through interventions in public procurement processes; its recommendations remain relevant and in 2019 the Welsh Government signed up to the UK Steel Charter, committing to work with industry to consider how our construction, infrastructure and civil engineering design decisions and resulting procurements can create opportunities for the UK steel industry (UK steel is defined by UK Steel, a trade association for the industry in the UK, as ‘any steel made in a UK-based blast furnace or electric arc furnace.’).

4. Actions required by Welsh public sector contracting authorities

Contracting authorities should use the procurement life cycle to identify any opportunity to support the UK steel industry to maximise the socio economic and environmental impact of the contract delivered.

4.1 Pre-procurement planning

Contracting authorities’ pre-procurement planning should include an assessment for all projects where steel will be a critical component and where the contracting authority has the opportunity to influence the way in which the steel component is sourced.

Future steel demand should be a part of the contracting authorities published procurement pipeline; projects should be included as far in advance as possible to stimulate the market. It is important to consider how and when steel inputs will be procured through the supply chain. Advance notice of relevant programmes or individual projects allows the steel sector to better prepare and cater for future needs by ensuring that the right capabilities are in place. In addition, the steel sector can help deliver better project outcomes through early dialogue and identifying the potential for innovative solutions.

Consider your design options and their implications for steel requirements,

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identifying specific steel products and volumes that will be required against the potential to source these from within the UK.

Holding 'meet the buyer' type events with industry to discuss your steel requirements is also useful. Trade bodies such as UK Steel can advise on how to engage effectively with the domestic sector; the [UK Steel directory](#) gives a list of UK organisations and products available.

A sample contract clause 'Obligation to advertise supply chain opportunities' can be found at Annex 1.

4.2 Procurement

Supplier Selection is an opportunity to use pre-qualification questions to tackle the problem of steel dumping and non-compliance with acceptable standards of health, safety and welfare and environmental standards.

Pre-qualification / Selection Stage questions can be found at Annex 2.

The nature of steel production is such that compliance with social, labour and environmental law outside of the UK and EU is a significant issue; this may be a useful differentiator when selecting suppliers.

Contracting authorities should consider specifying the Building Research Establishment (BRE) Standard, BES 6001 Responsible Sourcing of Construction Products or equivalent when procuring projects with steel component. The BES 6001 standard covers a range of construction foundation products, including carbon steel reinforcement 'rebar'.

Third party accredited BES 6001 provides public sector contracting authorities with assurance that constituent materials of products covered by the standard have been responsibly sourced. The standard describes a framework for the organisational governance, supply chain management and environmental and social aspects to address in order to ensure the responsible sourcing of construction products; it provides the ability to prove that an effective system for ensuring responsible sourcing exists.

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In support of supply chain transparency, contracting authorities in Wales should;

- a. Require BES 6001 or equivalent as part of the qualification criteria for bidders
- b. Require Tier 1 contractors to submit supply chain plans when bidding for contracts which include how steel will be sourced
- c. Include a contract condition to ensure that the Tier 1 contractor and its subcontractors openly advertise via sell2wales.gov.wales any remaining supply chain opportunities for the provision of steel (i.e. where no contractual arrangements have been agreed by the date of the main contract award).
- d. Require Tier 1 contractors to record the origin of critical steel components to be used, maintaining this throughout the contract.

4.3 Awarding the contract

Contracting authorities should not base their decisions to award contracts simply on lowest purchase price but should satisfy themselves that the price or cost calculations in all bids are based on an assessment of life cycle cost meeting the required legislation, quality and ethical standards specified.

While cost to the public purse is important recognise that abnormally low pricing could signal the contract is unlikely to be properly performed; unfairly undercutting domestic providers may result in job losses with significant economic and social impacts on affected communities. The provisions of PCR Regulations 68, Life-cycle costing and 69, Abnormally low tenders are designed to support contracting authorities to assess the best overall bid.

5. Legislation

Public Contracts Regulations 2015

Wellbeing of Future Generations (Wales) Act 2015

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6. Timing

This WPPN is effective from the date of publication 10/02/2021 until it is superseded or cancelled.

7. Additional information

[UK Steel Charter](#) on MAKE.UK

8. Contact details

Commercial Policy – Polisi Masnachol : CommercialPolicy@gov.wales
or PolisiMasnachol@llyw.cymru

9. References

Reference has been made to the following in the preparation of this WPPN:

- [Public Procurement of Steel – A report into the future Welsh public steel requirements and the capacity and capability of the steel sector](#) (Welsh Government 2016)
- [Procurement Policy Note - Procuring Steel in Major Projects Action Note 16/15 30 October 2015](#) (Crown Commercial Service, 2015) on GOV.UK
- [Procuring Steel in Major Projects – revised guidance. Action Note 11/16 13 December 2016](#) (Crown Commercial Service, 2016) on GOV.UK
- [The UK Steel Charter 2019](#)

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Annex 1: Sample contract condition

Obligation to advertise supply chain opportunities

1. The supplier shall ensure that all sub-contracts, which the supplier intends to procure following date of this contract, and which the supplier has not, before the date of this contract, already awarded to a particular sub-contractor, are:

- a. Advertised on Sell2Wales.gov.wales, and
- b. Awarded following a fair, transparent and competitive process proportionate to the nature and value of the sub-contract.

2. Any sub-contract awarded by the supplier pursuant to Clause 1 must contain suitable provisions to impose, as between the parties of the sub-contract:

- a. requirements to the same effect as those in Clause 1, and
- b. a requirement for the sub-contractor to include in any sub-contract which it in turn awards, suitable provisions to impose, as between the parties to that sub-contract, requirements to the same effects as those required by this Clause 2.

3. For the purposes of Clauses 1 and 2, “sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this contract and “sub-contractor” means any third party with whom

- a. the supplier enters into a sub-contract, or
- b. a third party under (a) enters into a sub-contract, or the servants or agents of that third party.

Source: Procurement Policy Note - Procuring Steel in Major Projects Action Note 16/15 30 October 2015 (Crown Commercial Service)

Annex 2: Pre-qualification / Selection stage

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questions

The following are pre-qualification / Selection Stage questions that can be used to test anti-dumping, health and safety and compliance with social, labour and environmental law.

Anti-dumping (steel and steel products)

Question 1: Do you take steps to ensure that members of your supply chain do not contravene anti-dumping legislation?

By “members of your supply chain” we mean suppliers or sub-contractors of any tier or consortium members or partners or any other entity (including your own company or members of your company’s group) from whom you propose to source steel to fulfil this contract.

Answer

Yes or No

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that all steel and steel products sourced by you for this contract will comply with anti-dumping legislation.

The relevant legislation is set out in [COUNCIL REGULATION \(EC\) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community](#)

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Question 1(a): If the answer to question 1 above is “Yes”, provide a brief outline of the steps that you take.

Answer

Text, 300 words max.

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that all steel and steel products sourced by you for this contract will comply with anti-dumping legislation. For instance, the steps that you take might include establishing the comparable price in the exporting country (such as market research, or checking production costs) and checking whether this is greater than the export price to the EU.

Question 2: Do you take steps to ensure that members of your supply chain do not make agreements with other economic operators aimed at distorting competition contrary to Regulation 57(8) (d) of the Public Contracts Regulations 2015?

Answer

Yes or No

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain do not make anti-competitive agreements with other suppliers, for example fixing artificially low prices with other exporters, or entering into arrangements to keep the domestic price artificially low to circumvent anti-dumping legislation.

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Question 2(a): If the answer to question 2 above is “Yes”, provide a brief outline of the steps that you take.

Answer

Text, 300 words max

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain do not make anti-competitive agreements.

For example, this might include making enquiries into their pricing structure as against other local suppliers, carrying out market research into pricing against production costs and potential collusion between suppliers, and ceasing to use suppliers where there is credible evidence of collusion or anti-competitive behaviour.

Question 3: In the last 3 years, have you or any member of your supply chain been found to be in breach of the anti-dumping legislation or comparable legislation in any other jurisdiction worldwide?

Answer

Yes or No

Guidance

“Found to be in breach” means that a decision has been made by a competent court, tribunal or administrative authority.

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Question 3(a): If you answered “Yes” to question 3 above, please provide brief details of the nature of the finding and any penalty imposed, and the action that you have, or your supply chain member has, taken to prevent re-occurrence.

Answer

Text, 300 words max.

Guidance

If you have or a supply chain member has been found to be in breach of anti-dumping legislation, the buyer may not select you to tender unless you are able to provide robust and credible evidence that measures have been taken to prevent this from re-occurring.

Note

If any of your answers to the above Anti-dumping (steel and steel products) questions are found to be incorrect or misleading then, without prejudice to any other right or remedy of the buyer, the buyer may decide to disqualify your tender or, if a contract has been awarded, cancel the contract without compensation or impose such penalties as are provided for in the contract.

Health and safety

Question 1: Do you take steps to ensure that all members of your supply chain have in place appropriate health and safety policies dealing with at least the following: a Policy Statement – signed and dated; the Organisation and Responsibilities – how Health and Safety requirements are implemented, and; the Arrangements – standards

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and procedures adopted in practice, and; that these are is reviewed at least every 2 years?

Answer

Yes or No

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain (as defined above) have in place and actively maintain appropriate health and safety policies.

Question 2: Do you take steps to ensure that all members of your supply chain provide appropriate health and safety training, particularly for workers carrying out potentially hazardous tasks?

Answer

Yes or No

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain provide appropriate health and safety training.

Question 3: If you answered “Yes” to questions 1 and 2 above, please provide brief details of the steps that you take to ensure that appropriate health and safety policies are in place and that appropriate training is provided?

Answer

Text 300 words max.

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain provide appropriate health and safety training.

Question 4: In the last 3 years, have you or any member of your supply chain been found to be in breach of any health and safety legislation or comparable legislation in any other jurisdiction worldwide, or served with notice to cease or improve matters relating to health and safety?

Answer

Yes or No

Guidance

“Found to be in breach” means that a decision has been made by a competent court, tribunal or administrative authority.

“Served with notice” means served with notice by a competent authority in the relevant jurisdiction.

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Question 4(a): If you answered “Yes” to question 4 above, please provide brief details of the nature of the finding or notice and any penalty imposed, and the action that you have, or your supply chain member has, taken to prevent re-occurrence of the circumstances giving rise to the finding or notice.

Answer

Text 300 words max.

Guidance

If you have or a supply chain member has been found to be in breach of, or has been served with notice in respect of, any health and safety legislation, the buyer may not select you to tender unless you are able to provide robust and credible evidence that measures have been taken to prevent this from re-occurring.

Note

If any of your answers to the above questions are found to be incorrect or misleading then, without prejudice to any other right or remedy of the buyer, the buyer may decide to disqualify your tender or, if a contract has been awarded, cancel the contract without compensation or impose such penalties as are provided for in the contract.

Compliance with social, labour and environmental law

Question 1: Do you take steps to ensure that members of your supply chain comply with applicable social, environmental and labour legislation in the UK or in the jurisdiction in which they operate, and

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in any event that they comply with at least the following international standards?

- ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise
- ILO Convention 98 on the Right to Organise and Collective Bargaining
- ILO Convention 29 on Forced Labour
- ILO Convention 105 on the Abolition of Forced Labour
- ILO Convention 138 on Minimum Age
- ILO Convention 111 on Discrimination (Employment and Occupation)
- ILO Convention 100 on Equal Remuneration
- ILO Convention 182 on Worst Forms of Child Labour
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention)
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

Answer

Yes or No

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain (as defined above) comply with applicable social, environmental and labour law in the UK, or in the jurisdiction in which they operate. In any case, your supply chain members must comply as a minimum with the international standards set out opposite in relation to:

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- Workers and employers (without distinction) must be free to establish and to join organisations of their choosing without prior authorisation, and to exercise their right to organise (ILO Convention 87).
- Protection against anti-union discrimination (ILO Convention 98).
- Non-use of forced or compulsory labour in all its forms (ILO Convention 29), including as political coercion or education, punishment or discrimination (ILO Convention 105).
- Non-use of child labour and in particular, the minimum age for any work likely to cause risks to health and safety must be at least 18 (ILO Convention 138).
- Non-discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation (ILO Convention 111).
- Ensuring equal remuneration for men and women workers for work of equal value (ILO Convention 100).
- Non-use of the worst forms of child labour:
 - including: all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict
 - the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances
 - the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, and
 - work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (ILO Convention 182).
 - Non-use of substances that are responsible for ozone depletion (Vienna Convention and Montreal Protocol).
 - Environmentally-sound treatment of toxic waste and avoidance of transportation of hazardous waste to less-developed countries (Basel Convention).
 - Non-production or use of persistent organic pollutants (Stockholm Convention).

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- Acting responsibly and transparently in relation to the import or export of hazardous chemicals, in particular using proper labelling, including instructions for safe handling, and informing users of any applicable restrictions or bans (PIC Convention (Rotterdam)).

Question 1(a): If you answered “Yes” to question 1 above, please provide a summary of the steps that you take.

Answer

Text 300 words max.

Guidance

The buyer may not select you to tender unless you can show adequate processes for ensuring that members of your supply chain (as defined above) comply with applicable social, environmental and labour law in the UK, or in the jurisdiction in which they operate. In any case, your supply chain members must comply as a minimum with the international standards set out above.

Measures could include, for instance:

- Checking whether your suppliers or sub-contractors have policies dealing with the above matters.
- Checking that they take reasonable steps and employ reasonable resources to enforce their policies.
- Checking whether they have ever been found to be in breach of environmental, social or labour laws either in their own jurisdiction, any other jurisdiction in which they operate, or the international standards above.
- If they have been found to be in breach, checking what measures they have put in place to rectify such breach (including identifying victims and payment of compensation where appropriate) and taking steps to prevent recurrence.

Question 2: In the last 3 years, have you or any member of your

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supply chain been found to be in breach of any social, environmental or labour legislation or comparable legislation in any other jurisdiction worldwide?

Answer

Yes or No

Guidance

“Found to be in breach” means that a decision has been made by a competent court, tribunal or administrative authority.

Question 2(a): If you answered “Yes” to question 2 above, please provide brief details of the nature of the finding and any penalty imposed, and the action that you have, or your supply chain member has, taken to prevent re-occurrence.

Answer

Text 300 words max.

Guidance

If you have or a supply chain member has been found to be in breach of any social, environmental or labour legislation, the buyer may not select you to tender unless you are able to provide robust and credible evidence that measures have been taken to prevent this from re-occurring.

Note

If any of your answers to the above questions are found to be incorrect or misleading then, without prejudice to any other right or remedy of the buyer, the buyer may decide to disqualify your tender or, if a contract has been awarded, cancel the contract without compensation or impose such penalties as are provided for in the contract. Furthermore, note that if your tender is abnormally low by reason of non-compliance with social, environmental or labour law, then the buyer must disqualify your tender.

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