

30 January 2023

Procurement Thresholds

The £25,000 threshold increased to £30,000 from 21 December 2022 (SI 2022/1390)

Public contracts, with an estimated value (including VAT, from 1 January 2022):

over £213,477 (previously 189,330 ex VAT) for goods or services, or

over £5,336,937 (previously £4,733,252 ex VAT) for public works (construction),

must comply with the full requirements of the Public Contracts Regulations 2015. These include specific tendering methods and timescales, as well as a requirement to advertise on both the Contracts Finder website and Find-a-Tender (the UK e-notification service).

Where a contract will run for several years, it is the total (not annual) value that matters.

Where the estimated total value (including VAT) is below these thresholds, but exceeds £30,000 (after 21 December 2022), a council is required to advertise the opportunity on Contracts Finder if they publish an open invitation to quote/tender. If they are inviting specific firms and not opening up to wider competition, they don't have to advertise the opportunity on Contracts Finder (Public Contracts Regulations 2015, Reg. 110(5)(b)).

However, a council must comply with its own Standing Orders and Financial Regulations and if those regulations require an open invitation and a formal tender process, the council should follow them. Tendering processes ensure fair competition, achieve value for money and avoid anti-competitive behaviour. They protect the council and taxpayers.

If a council simply chooses specific firms to invite, it must avoid allowing non-commercial considerations (defined in Part 2 of the Local Government Act 1988) to influence its decisions. If a council invites some suppliers and not others, it should record its reasons.

If the council genuinely believed the value would be under £30,000 but the tenders came in above that, the Regulations do not require it to go back and start again.

Regardless of whether the opportunity was advertised, Regulation 112 requires a council to publish the award of a contract over £25,000 prior to 21 December 2022, or £30,000 thereafter, on Contracts Finder within a reasonable timescale. There is no specified timescale for parishes, but we suggest within 3 months.

Disclaimer

This bulletin is only intended as a brief guide and councils should ensure they follow the Regulations and guidance on www.gov.uk, seeking professional advice if they are in any doubt. The Parkinson Partnership LLP accepts no liability for any loss arising from situations where councils have not followed the law and guidance.