

Scottish Procurement Policy Note: SPPN 8/2021

13 December 2021

New procurement thresholds and the inclusion of value added tax in calculating the estimated value of contracts from 01 January 2022.

Purpose

To provide notice of:

- changes to financial thresholds to the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016 and the Concession Contracts (Scotland) Regulations 2016 (“the procurement regulations”), and;
- the need to include VAT, where applicable, when calculating the estimated value of contracts under the procurement regulations from 1 January 2022.

Key Points

- The new threshold values are relevant to procurement exercises which commence on, or after, 1 January 2022.
- There will be a change to the way the value of a contract is estimated for the purpose of determining whether that contract meets or exceeds the new threshold values. From 1 January 2022 VAT, where applicable, must form part of the calculation.

Background

Following the UK’s exit from the EU, Scottish Ministers must now revise the threshold values of the procurement regulations every two years to ensure that they remain aligned to thresholds set out in the World Trade Organisation’s Government Procurement Agreement (“GPA”).

Under the rules of the GPA, the procurement thresholds must include VAT.

Treatment of VAT

Wherever VAT may be payable under a contract, purchasers must ensure that an allowance for VAT is included in the calculation of the estimated value of the contract for the purposes of determining whether the contract equals or exceeds the new threshold values.

Unless purchasers are able to demonstrate that a lower (or no) rate of VAT applies to a contract, a suggested method of calculating the estimated value of a contract is to add the standard rate of VAT (currently 20%) to the net contract estimate. As this is the highest rate of VAT which is chargeable in the UK, purchasers will avoid underestimating the contract's value if this is used.

If the contract's subject matter is exempt from VAT or zero rated VAT, then purchasers do not need to include VAT when calculating the estimated value of the contract.

If VAT is initially payable but later recoverable it must be included in the calculation of the estimated value of the contract.

This change of including VAT in calculating the estimated value of a contract only applies when estimating the value of a contract to determine whether it equals, or exceeds, the new threshold values. This in turn determines which set of regulations apply; for example, whether the contract opportunity notice and award notice will be published on the UK-wide Find a Tender Service website.

No other changes relating to VAT and contract values are required in procurement practice. When filling out the estimated contract value in a contract opportunity notice or a contract award notice on PCS, purchasers currently input the value as a figure excluding VAT. This will remain the case after 1 January 2022.

Procurement Reform (Scotland) Act 2014

The threshold values of the Procurement Reform (Scotland) Act 2014 are not revised every two years and have not changed, remaining £50,000 for goods and services, and £2 million for works contracts. Likewise, the method for calculating the estimated contract value of procurement which falls under the Act has not changed and remains exclusive of VAT.

New Threshold Values

The table in Annex A - Summary of threshold levels from 1 January 2022 - shows the new threshold values. Recognising that the way the estimated value of a contract is calculated will change from 1 Jan 2022, the table also contains an additional column that shows the new threshold values excluding a VAT rate of 20%. Purchasers may find this column helpful as part of the transition from estimating the value of a contract ex VAT to estimating the value of a contract inc VAT.

EU Funded projects

Where a contract has EU funding attached to it, the procuring body should refer to the funding provider for further advice. It is likely that EU procurement rules and thresholds will continue to apply to these contracts.

Action required

For procurement processes which commence on or after 1 January 2022 contracting authorities must:

- apply the revised thresholds in the 'New Thresholds' column of the table in Annex A - Summary of threshold levels from 1 January 2022;
- consider VAT when calculating the estimated value of a procurement for the purpose of determining whether that contract meets or exceeds the new threshold values.

Public bodies are reminded that (as is the case at the moment):

- when completing relevant forms on PCS which require an estimated contract value to be quoted, you must continue to exclude VAT from the value; and
- continue to exclude VAT when calculating the estimated value of a contract for procurements which fall under the Procurement Reform (Scotland) Act 2014.

Dissemination

Please bring this SPPN to the attention of all relevant staff, including those in agencies, non-departmental public bodies and other sponsored public bodies within your area of responsibility.

Contact

If you have any questions about this SPPN, please contact us at scottishprocurement@gov.scot.

Annex A – summary of threshold levels from 1 January 2022

The table below lists the new threshold values. The final column, designed to be indicative only, shows the value of the new thresholds excluding the standard rate of VAT.

The Public Contracts (Scotland) Regulations 2015

Supplies and services (except subsidised services contracts)

Schedule 1 bodies

New threshold **£138,760**

Indicative value excluding 20% VAT £115,633

Others

New threshold **£213,477**

Indicative value excluding 20% VAT £177,897

Subsidised services contracts

All bodies new threshold **£213,477**

Indicative value excluding 20% VAT £177,897

Works (including subsidised work contracts)

All bodies new threshold **£5,336,937**

Indicative value excluding 20% VAT £4,447,447

Light touch regime for services

All bodies new threshold **£663,540**

Indicative value excluding 20% VAT £552,950

Small lots

Supplies and services new threshold **£70,778**

Indicative value excluding 20% VAT £58,982

Works new threshold **£884,720**

Indicative value excluding 20% VAT £737,267

The Utilities Contracts (Scotland) Regulations 2016

Supplies and services

All sectors new threshold **£426,955**

Indicative value excluding 20% VAT £355,795

Works

All sectors new threshold **£5,336,937**

Indicative value excluding 20% VAT £4,447,447

Small lots

Supplies and services new threshold **£70,778**

Indicative value excluding 20% VAT **£58,982**

Works new thresholds **£884,720**

Indicative value excluding 20% VAT **£737,267**

The Concession Contracts (Scotland) Regulations 2016

Concession contracts new threshold **£5,336,937**

Indicative value excluding 20% VAT **£4,447,447**

The Procurement Reform (Scotland) Act 2014

Public contract (other than a public works contract) new threshold **£50,000 (ex VAT)**

Public works contract new threshold **£2,000,000 (ex VAT)**