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Dynamic Purchasing Systems

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Dynamic Purchasing Systems: an introduction

- Use of Dynamic Purchasing Systems – an overview
- Differences from the regime under PCR 2006
- Stages in a Dynamic Purchasing System
 - Planning a DPS
 - Setting up a DPS
 - Operating a DPS
- Points to remember
- Any questions?

Use of a Dynamic Purchasing System: an overview

- What is a Dynamic Purchasing System?
 - like a framework agreement except that during its life other economic operators (suppliers) may, if they meet the published criteria, join the System
- To what is a Dynamic Purchasing System best suited?
 - “for commonly used purchases” – “the characteristics of which, as generally available on the market, meet” the Contracting Authority’s requirements
- Key features:
 - “the dynamic purchasing system shall be operated as a completely electronic process and shall be open throughout the period of validity of the purchasing system to any economic operator that satisfies the selection criteria”

Use of a Dynamic Purchasing System: an overview

- Regulated by Regulation 34 of the Public Contracts Regulations 2015 ... but note other provisions:
 - eg Regulation 53, Regulation 72
- Must be established by a competition – the Restricted Procedure under Regulation 28 PCR 2015
- Benefits:
 - buyers benefit through a more streamlined procedure – less admin, saving time and money
 - suppliers may join and leave freely: membership to suit their budgets, therefore
- A two stage process

Use of a Dynamic Purchasing System: an overview

- Setting up
 - grounds for exclusion and selection criteria
 - no limit on numbers who can join
 - duration
 - evaluation and joining a DPS
 - ending/altering a DPS
- Second stage
 - invitation to tender for specific contract
 - notification of award decision
 - publication of contract or decision
 - debriefing

Difference from regime under Public Contract Regulations 2006

- Basic principles from 2006 regime remain, BUT
- Indicative tenders no longer needed to accompany request to join
- Timescales for duration of DPS: default four year period removed
- Timescales for responding to Requests to Participate and to tenders
- Once established authority can move straight to tender stage

Planning a Dynamic Purchasing System

- As with all procurements – planning is important!
- Therefore market analysis/assessment of user needs etc to establish whether DPS is appropriate and that the system can be operated effectively
- Consider:
 - subject matter
 - categories
 - duration
 - keeping documents live
 - inter-relation with light regime services

Planning a Dynamic Purchasing System

- Categories must not be structured in such a way as to be discriminatory under TFEU principles but consider eg:
 - services divided into categories by geographical area?
 - works divided into categories to reflect specialism?
- Keeping documents “live” for the duration of the DPS will also present challenges: therefore
 - decision-making and paper trail
 - ability to refresh
 - be realistic!

Setting up a Dynamic Purchasing System

- Call for competition
 - what is used?
 - what information must be included?
 - What other information should be included?
- Minimum time periods
 - for receipt of requests to participate
 - for making a decision as to whether or not to admit to the DPS
 - for notifying of a decision to admit/not admit to DPS

Setting up a Dynamic Purchasing System

- General requirements
 - charges for requests to participate or for participation?
 - electronic communication
 - information to be made available by the Contracting Authority – Regulation 53!
 - i.e. Procurement Documents
 - information on the decision to accept or reject a request to participate
 - standstill, Contract Award Notice and Contracts Finder

Setting up a Dynamic Purchasing System

- Section 20 and DPSs
 - Existing Framework Agreements and consultation of leaseholders not compatible
 - DPS offers solution for contractors nominated by leaseholders
 - Use Schedule 1 under Section 20 Regulations

Operating a Dynamic Purchasing System

- The text in Regulation 34 is very ‘limited’
- Therefore supplement by inserting in the Procurement Documents what you actually need
- The Procurement Documents should be reviewed periodically – particularly if DPS is intended to have a long duration, so be alert to:
 - change to requirements/needs
 - new legislation
 - pricing issuesand anticipate them (where possible)
- Treaty principles and other parts of PCR 2015 will still apply
- A DPS procured contract is still a contract and has to be administered accordingly

Points to remember

- Creation and use of a DPS is caught by other provisions, i.e. not just Regulation 34 of PCR 2015
- A DPS may be set up by a Central Purchasing Body
- There are some grey areas
- Decision making at outset is critical in relation to:
 - subject matter
 - timescalestherefore an audit trail is vital
- Even more so are the capabilities of the system itself
- Resourcing and experience
- Remember - it is a mechanism for procuring not a new procurement procedure

Any questions?



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