

Cabinet Office

Guidance

Procurement Policy Notice (PPN) 02/20: Supplier relief due to COVID-19 - additional sector guidance for state funded schools

Updated 19 May 2020

Introduction

This guidance is aimed at helping maintained schools and academy trusts understand how PPN 02/20 - the guidance that applies across the public sector on how publicly funded bodies should support suppliers through the COVID-19 outbreak - applies to them.

It focuses in particular on 3 important areas:

- helping to determine if you are a contracting authority - and therefore whether PPN02/20 applies to you
- to provide you with some overarching principles and guidance on how you may choose to review and respond to supplier requests within the scope of the PPN
- specific guidance on school food contracts

Background on PPN 02/20

To ensure service continuity during and after the COVID-19 pandemic, all public sector contracting authorities have been advised by the government to support their at risk suppliers in a range of ways to ensure business and service continuity and to protect jobs. The measures set out in the PPN 02/20, issued on 19 March, are to ensure suppliers are in a position to resume normal contract delivery once the COVID-19 outbreak is over. The PPN is time-limited and applies through to 30 June 2020.

Schools will continue to receive their core funding allocations through this period, regardless of any periods of closure or reduced operation - and will therefore be in a position to consider supporting suppliers at risk. The DfE is putting in place [an additional fund to support schools with unavoidable additional costs associated with](#)

[COVID-19 that cannot be met from existing resources](#). For the avoidance of doubt, costs associated with supporting suppliers through PPN 02/20 would not be eligible for support through this fund. You should only support suppliers through core funding allocations.

The PPN only applies to contracted goods, services and works contracts, such as for building works, where there is a direct relationship between the contracting authority and its suppliers under a procured contract. It does not apply to other funding mechanisms such as grants, or contracts supported by private income such as for transport provision.

While contracting authorities have a responsibility to their own suppliers, PPN 02/20 is advisory only. It does not bind contracting authorities to do anything other than what they feel is appropriate under these challenging and complex circumstances.

Determining if you are a contracting authority

When considering how to implement the PPN, you first need to determine whether you are a contracting authority and if you are, which of your suppliers may be at risk and fall within the scope of the supplier relief measures put forward in PPN 02/20.

Maintained schools, academy trusts and non-maintained special schools will be classed as a contracting authority as the majority of their income (more than 50%) is derived from state funding. Multi-academy trusts are typically the contracting authority for all schools within the trust. Independent special schools, which may not be regarded as a contracting authority under the relevant public contract regulations, may wish to consider applying the PPN 02/20 principles.

If you are in any doubt about whether you are classed as a contracting authority you may wish to seek your own legal advice.

Reviewing and responding to supplier requests

The DfE knows that schools and trusts are already being contacted by suppliers about PPN 02/20 and that responding to their requests for relief can be complex and time consuming. The definition of 'suppliers' can include all organisations providing goods and services to your school, including local authorities and local authority trading services. All contracting authorities, including the DfE, are working to implement PPN 02/20 to support suppliers at risk. To help you decide how best to respond to any requests, the DfE would like to share details of our approach.

The Department for Education's 5-stage approach

The DfE is using the 5-stage approach below to evaluate suppliers who fall within the scope of PPN 02/20. This approach may not work for all schools and trusts, as it reflects the complexity and scale of the DfE's commercial arrangements, so is intended to provide you with some overarching guidance and principles as to how you could choose to implement the PPN.

- stage 1: Assessment of whether the supplier has considered other measures announced by the government: this involves asking if they have explored, and applied for, as applicable, all other forms of support available to them, including the wider government business support schemes. This is to avoid duplication of funding, such as providing both supplier relief under PPN02/20 and payment of related workers that have been furloughed under the Coronavirus Job Retention Scheme (CJRS)
- stage 2: Assessment of whether they are a critical supplier to your organisation: the main consideration here is whether you feel the supplier provides a service or good(s) that are critical to your school in the medium and long term, and are important to business continuity to provide relief against the contract
- stage 3: Assessment of whether the supplier is financially 'at risk' as a result of COVID-19: In principle a supplier is deemed at risk where they are unable to fulfil the contractual obligations of a contract due to COVID-19 and are experiencing financial difficulties as a result
- stage 4: Commercial interventions to manage supplier: It is important that commercial judgement is used when considering the type of support available under the PPN, which could include:
 - payments for previously anticipated volumes (even if not met), or for the advanced order of materials where appropriate
 - continuing to pay for services to suppliers who give their best endeavours to continue delivery despite performance being somewhat affected
 - considering an extension of time for contract performance (for example, revised milestones or delivery dates)
 - taking a more reasonable view on agreed lead times which, despite best endeavours, might not be met by suppliers, and ensure their payments are not negatively affected by that
 - consider supplementing service delivery through your own resources, though this is likely to be difficult, but may help alleviate the challenges the supplier is suffering as a result of COVID-19
- stage 5: Financial interventions: As with the commercial interventions, financial judgement should be used when considering any of the suggested options below:
 - variation of payment mechanism - specifically beneficial where contracts are based upon the delivery of outcomes or outputs, you can vary the payment mechanisms to provide greater short term cash flow to the supplier, for example moving from payments on delivery of services, works or goods to aligning payments to the costs being incurred by the supplier, or breaking down milestone payments into multiple smaller payments
 - increasing speed of payment - this PPN seeks to expedite this process and adjust normal financial controls, such as paying reconciled invoices before their due date
 - prepayment of up to 25% of contract value - this specifically targets immediate cash flow issues but potentially creates a cash flow issue at a later date in the contract, so should be considered accordingly. For example, releasing a proportion of retained funds on capital projects, in lieu of actual defects being identified and remedied

If you do choose to make any commercial or financial interventions, you need to make sure they are documented, using the change control clauses contained in the contracts, even if this takes place retrospectively. [The Cabinet Office has developed a series of model clauses](#) to help with this.

There are a number of other important points to note when considering how best to implement PPN 02/20 for your school or trust:

- whatever approach you decide best meets your needs, you need to ensure you apply the necessary financial and governance controls as set out in the Local Scheme for Financing Schools for Maintained Schools and the Academies Financial Handbook for Academy Trusts
- maintained schools should also get advice from their local authorities on how they have implemented PPN 02/20 especially where you are accessing supplier contracts that they manage
- the PPN is very clear about the importance of transparency and suppliers agreeing to act on an open book basis and make cost data available to you during this period, so please ensure they do so where relevant
- keeping a record of your agreed approach and supporting rationale, along with details of any payments made, assessment of risks or contractual changes, is important to show that you have an audit trail. This needs to be maintained throughout the period the PPN applies and retained afterwards for any future audit purposes.

School food contracts

As part of helping schools understand how to implement PPN 02/20, the DfE has provided [guidance explaining what schools should do to make sure eligible pupils have continued access to free school meals where the pupil is not attending school](#).

In line with PPN 02/20, contracting authorities should inform suppliers, which they believe are at risk, that they will continue to be paid as normal (even if service delivery is disrupted or temporarily suspended) until at least the end of June. The government will continue to provide schools with their expected funding, including funding to cover free school meals and universal infant free school meals, throughout this period of closure.

You should, therefore, continue to make payments to food suppliers that are considered at risk in relation to the cost of free school meals and universal infant free school meals. Such payment to suppliers should be made on the basis of the previous 3 months' invoices, and only where suppliers agree to act on an open book basis and make cost data available to the contracting authority. This does not apply to the costs of meals usually purchased by parents for children who are not eligible for free school meals.