



Record keeping

■ What are the requirements?

The Procurement Act requires you to keep certain information that you gather during the award of an above-threshold contract. The requirement is retain:

- records that are sufficient to explain a **“material decision”** made during the award of that contract and
- records of **any communications** with suppliers in relation to the award of the contract (prior to the award taking place)

Both sets of records must be kept for a period of **three years following contract award**.

Note

Section 98(6) - this section does not affect any other obligation under any enactment or rule of law by virtue of which a contracting authority must retain documents or keep records, including for a longer period.

■ What is a material decision?

A decision is deemed to be “material” if it’s made in relation to the award of a contract. This may include decisions relating to:

- excluding one or more suppliers based on a mandatory or discretionary exclusion ground
- excluding or reducing the number of suppliers based on conditions of participation
- conducting an interim assessment to reduce the number of suppliers during a competitive flexible procedure (e.g. a presentation or negotiation)
- the assessment of tenders against the award criteria
- the decision to award the contract (or, if applicable, to terminate the procurement without awarding a contract)

■ What records should be kept?

Types of records	Examples
<p>Records containing material decisions, including:</p> <ul style="list-style-type: none"> • what the decision was and when it took place • how the decision was made, who it was made by, and why • how that decision impacted on the award of the contract 	<p>Examples of records that may be kept include, but are not limited to:</p> <ul style="list-style-type: none"> • notices and other associated procurement documents • tender submissions and/or requests to participate from suppliers • the assessment summary • other documents produced internally e.g. evaluation panel notes • internal governance documents, gateway reviews, minutes from senior stakeholder briefings
<p>Supplier correspondence</p>	<ul style="list-style-type: none"> • Correspondence with suppliers e.g. requests to participate clarification questions, pre-market engagement information etc • Expressions of interest (e.g. following publication of a planned procurement notice or preliminary market engagement notice) • Any preliminary market engagement undertaken • Clarifications raised by a supplier during the procurement • Any formal or informal challenges raised by a supplier during the procurement. • Notifications to a supplier of their exclusion from a procurement

Where you use an eSender for your procurements, this may hold many of these records. In addition, the data published on the central platform should hold, as a minimum, the notices (and any associated information) you've published in relation to the procurement.

It may help you to keep a log of records that relate to material decisions made under the contract. If so, a template can be found in Appendix 1.

Keeping a record of material decisions may help you in completing internal governance processes, and/or managing queries or challenges from suppliers post-contract award.

■ **What if a contract is not awarded?**

Where the decision is made to terminate a procurement without awarding a contract, you are only required to keep records until the point at which the procurement termination notice is published.

Annex 1: Record Keeping Template

Procurement process stage	Material decision made	Document(s) retained	Location (e.g. eSender platform)