Contract Notice and Advertising

Contract Notices must be used to advertise all Route 2 procurement exercises, other than for Care and Support Services contracts between £50,000 and the **light touch threshold**.

If you are unable to estimate the value of a contract that contract will be explicitly made subject to the procurement rules. More information can be found at What Procurement Route Should I Choose? and Thresholds.

Regulation 54(1) of the **Public Contracts (Scotland) Regulations 2015** provides that:

"a contracting authority must offer on the internet unrestricted and full direct access free of charge to the procurement documents from the date of publication of a notice"

The Regulations define 'procurement documents' very widely. This means the literal interpretation of the above is that all documents related to the procurement must be available at the commencement of a procurement. These documents include:

- technical specifications, terms and conditions; and
- tender documents to be used at subsequent stages.

From an operational perspective, however, it is not always practical to have all documents available at the start of the procurement. In general, only in an **Open Procedure** is an organisation required to make the ITT available from the outset. For all other procedures, you must provide sufficiently precise information to enable bidders to identify the nature and scope of the requirement. From this information the bidder can decide whether to request to participate.

Contract Notices

Open or close

Contract Notices must be published on **Public Contracts Scotland (PCS)**.

PCS is the national advertising portal. It provides free access for suppliers to contract opportunities and guides buyers through the process of creating a **Contract Notice**.

Contract Notices published via PCS will contain all of the mandatory information required.

It is important that the Contract Notice provides the scope of the requirement, which could include the value, the volume of goods or the nature and extent of services.

Framework Agreement Contract Notices must clearly identify the bodies which will be entitled to use it.

If the proposed contract is to be a reserved contract, the Contract Notice must state this.

The Contract Notice must also state:

- if the organisation intends to hold an electronic auction;
- if presentation of tenders in the form of electronic catalogues is accepted or required;
- whether or not variants will be allowed or required; and
- information in respect of any lots.

Your Contract Notice must state how the bidders will be able to access the Procurement Documentation e.g. if PCS-Tender is used, it must provide the relevant reference numbers for the specific procurement.

If uploading Procurement Documents to PCS (Advertising) size restrictions currently apply:

- **10Mb per document and a maximum of 40Mb for the buyer; and**
- **10Mb per document with a maximum of 30Mb for the Supplier SPD Statements.**

The Contract Notice should contain the minimum and specific requirements for your procurement exercise. You should include statements relating to the relevant SPD.

You should include appropriate statements in the Contract Notice that are aligned to the relevant exclusion and selection questions being used in the SPD for your procurement.

Standardised statements relating to the SPD questions have been developed. These support you in adopting a standard approach to defining minimum requirements in your Contract Notice.

Unlike SPD questions, you can create new or amend the existing standardised statement(s). These will then be included in the Contract Notice. Any amended or additional statements must reflect the selection criteria and minimum standards of the procurement exercise.

Using a PIN as Advance Notice

Open or close

A PIN alerts potential bidders to future planned procurements and allows them time to prepare to bid for the contracts announced.

It can also enable reduction of timescales once the specific Contract Notice has been despatched.

Organisations can issue a PIN as a means to seek information from suppliers to the market when developing a procurement.

- The standard PIN form should be used
- The PIN must have been sent between 35 days and 12 months before the date on which the Contract Notice is sent
- Once a PIN has been published, reductions in timescales for competitions identified in the PIN are possible

The period covered by a PIN must be a maximum of 12 months from the date on which the notice is sent for publication.

Publication of Contract Notices

Open or close

All Contract Notices must be published on Public Contracts Scotland (PCS).

PCS is the national advertising portal which provides suppliers with free access to contract opportunities. It also guides Buyers through the process of creating a Contract Notice on its website.

PCS automatically creates a Contract Notice on the UK Find a Tender Service (FTS).

Your contract notice must set out the specific requirements and minimum standards that are required in the SPD for your process. These must be relevant and proportionate to the procurement.

If you are using the SPD capability in PCS-T you must set out the specific requirements and minimum standards required. This is not necessary if you are using the online SPD Module on PCS asthe relevant information is contained within the module already and done automatically.

A selection of Standardised Statements has been developed (and is continually updated) to support Buyers in developing their SPD and these can be used as a guide to help you.

Care and Support Services

Open or close

For Route 2 Care and Support Services procurements, you may decide if you wish to advertise the requirement or not. In the case of:

- direct award without advertising the requirement you only need to publish a Contract Award Notice on PCS, but not a Social and other Specific Services Contract Notice advertising the requirement;
- advertising the requirement you need to publish a Social and other Specific Services Contract Notice advertising the requirement and also a Contract Award Notice on PCS.

Electronic auctions cannot be used.

Please also read the Guidance on reserving contracts to qualifying organisations for certain health and social care services. If you are reserving a contract for this reason, the call for competition shall reference Regulation 76A of the Public Contracts (Scotland) Regulations 2015.

EU Funding

Open or close

From 26 October 2023, OJEU are making changes to the TED portal (https://enotices.ted.europa.eu/contentView?page=index) which means that notifications from PCS will no longer be compatible. Therefore, from that date, notifications relating to transitional and EU funded procurements will no longer be sent to TED from PCS. Organisations still wishing to notify TED of their procurement activity are able to do so themselves.

PCS will be updated to reflect these changes after 26 October 2023.

Arrangements Prior to 26 October 2023

Since 1 January 2021, (the end of the transition period after EU Exit) higher value notices have been published on the UK e-notification service Find a Tender Service (FTS) as well as appearing on PCS. This replaced the requirement for them to be published on the Official Journal of the European Union (via their TED) system, with two exceptions. Transitional procurements (public sector contract opportunities that

were launched but not concluded before 11pm on 31 December 2020) and all notices relating to EU funded procurement exercises, have continued to be published on TED, as well as FTS and PCS. This has been managed automatically by PCS. This arrangement will cease on 26 October 2023.

If you are in doubt whether your procurement exercise is or is not EU funded, please seek legal advice.

Please note that the information and guidance provided in the Procurement Journey routes are not designed to cover the specifics that are often applicable to such procurement exercises and we would always advise you to seek specific legal guidance where you need further support.