Route 2 Introduction

Test This Route of the Procurement Journey provides guidance for regulated procurements, as defined in the Procurement Reform (Scotland) Act 2014, which are between £50k and the thresholds for goods and services

Route 2 does not apply to construction (works). Please refer to the **Construction Handbooks**

Route 2 is not intended to replace training and it is assumed that individuals will have been trained in:

- the Procurement Reform (Scotland) Act 2014 and any other legislative requirements;
- the procurement cycle and
- any applicable local procurement policies, guidelines and governance arrangements.

The main objectives of this route are:

- to provide a step-by-step guide to conducting a route 2 procurement exercise
- to provide a set of guides and templates that can be used to collate and analyse the data required when conducting the procurement exercise
- to standardise the public sector procurement process across organisations
- to highlight the minimum legal and policy obligations involved at each stage of the process

Before beginning Route 2 please consider the following:

Good procurement is not just about buying well but it's often about buying less or, indeed, **not buying at all**.

Depending on the specifics of the procurement exercise, the types of question you might ask of your stakeholders, prior to commencing the procurement, could include the following

- have alternatives to procuring been considered and discounted?

- do you have a budget?
- is there a robust documented business case supporting this procurement?
- are you aware of opportunities to buy your specific requirement through existing collaborative contracts and do you know how to access them?
- what is the level of risk associated with the delivery of this requirement?

Please be aware that where the term "Commodity" is used in the Procurement Journey, this can equally refer to categories and/or services.

For complex and higher value Regulated Procurements, you may find some of the guidance and tools in **Route 3** to be of benefit, but you only need to follow Route 3 where the contract is required by law to be advertised in the **Find a Tender Service (FTS)**.

Contract Notice, Procurement Documents and Contract Award Notice

Open or close

Contract Notice

Contract Notices must be used to advertise all Route 2 procurement exercises. The only exceptions to this are:

- Use of the negotiated procedure without prior publication (only available in strictly defined and exceptional circumstances)
- For Care and Support Services contracts between £50,000 and the **light touch regime threshold**.

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 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. This can be either by volume or by value.

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
- presentation of tenders in the form of electronic catalogues is accepted or required
- whether or not variants will be allowed or required

- 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 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 for the Single Procurement Document (Scotland) (the SPD (Scotland)) or SPD (Scotland) Standardised Statements

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

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

Standardised statements relating to the SPD (Scotland) questions have been developed. These support you in adopting a standard approach to defining minimum requirements in your Contract Notice. They are available in the SPD (Scotland) station.

Unlike SPD (Scotland) 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.

Publication of Contract Notices

PCS automatically creates a Contract Notice on the **Find a Tender Service (FTS)** if your procurement is above **threshold**.

If using **PCS-T** or the **SPD** word document you must set out the specific requirements and minimum standards required. This must be done in the Contract Notice. These must be relevant and proportionate to the procurement. in This is not necessary if using the online SPD Module on PCS: the relevant information is contained within the module already.

It is not necessary to insert the Standardised Statements into the Contract Notice if using the online SPD Module on PCS as the relevant information is contained within the module. However the Standardised Statements can be used as a guide to help you.

More information on SPD and standardised statements, can be found in **Route 3** of the Procurement Journey.

Contract Award

You must obtain internal approvals your organisation's governance requires.

The contract documentation should be collated and finalised to reflect the successful tenderer’s submission and agreed terms and conditions.

Where required, the documentation must be signed in duplicate by the appropriate authority levels in both the contracting and tenderer's organisations.

You must consider who you need to inform when a contract has been awarded and the information they require.

For example:

Notify stakeholders and users of the contract award, providing them with: timescales; details of the contract; and any migration considerations.

If using **PCS-Tender**, the Contract Award must be activated on this system. This activation does not generate correspondence to the tenderers. As a result you must issue the **Contract Award Notice** on **Public Contracts Scotland**.

If the contract involves cyber risks, and you are using the beta **Cyber Security Procurement Support Tool** (CSPST), please ensure you select the successful tenderer in the CSPST tool to allow your organisation to manage overall cyber risks.

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Using a PIN as advance notice

Open or close

Using a PIN as advance notice

You may give advance notice of planned procurements through the publication of a PIN. This can allow potential bidders to prepare themselves to bid in time for the planned contract(s) announced.

- PINs should contain details of the supply and services contracts for which your organisation expects to seek tenders during the next 12 months.
- The standard PIN form should be used.
- The period covered by a PIN should be a maximum of 12 months from the date on which the notice is transmitted for publication.

Using PCS-T

Open or close

Using PCS-T

If you use **PCS Tender** you must provide:

- the relevant reference numbers for the specific procurement and
- set time limits for the receipt of tenders (bearing in mind statutory minimums).

Using PCS

Open or close

Using PCS

If uploading Procurement Documents to PCS file size restrictions apply. These are:

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

If you are using PCS-Tender, attachments cannot be added to the Contract Notice on PCS Advertising. You must add your documents to PCS-Tender.

Contracts Register

Open or close

Contracts Register

The Public Contract Scotland (PCS) Contracts Register module provides the facility for buying organisations to operate a private register of all contracts they have in place and a public register of these contracts to meet the obligations of Section 35 of the Procurement Reform Act (Scotland) 2014.

When you publish a PCS award notice an entry is automatically made in your contracts register. Your organisation will need to make the decision whether to make the contracts register publicly viewable or not.

PLEASE NOTE: if you do not use PCS for producing a contract register, you still must produce a publicly available one.

The PCS contracts register will pull through the contract value from your contract award notice. You should always be as open and transparent as possible when completing this field. This field can be manually amended but all relevant amendments have to be manually duplicated in the Scottish Procurement Information Hub (there is no integration between the two systems for manual amendments).

Even if you withhold the contract value from a contract award notice, this does not exempt the information being subsequently disclosed under the **Freedom Of Information (Scotland) Act 2002 (FOISA)**. To withhold under FOISA, the

information would have to, or be likely to cause substantial prejudice. Also the public interest in withholding the information would have to outweigh the public interest in its release.

Detailed contracts register user guidance can be found in PCS.

Care and Support Services

Open or close

Care and Support Services

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.

For these services, you can consider if the light touch regime applies. Guidance on that can be found at Part 2 – Specific guidance for use where a public body is procuring a care and support service – the procurement process - Procurement of care and support services: best practice guidance - updated June 2021 - gov.scot

Please also read the Guidance on reserving contracts to qualifying organisations for certain health and social care services.

Quickfire Guide

Quickfire Guide

Sign Off Points

There are natural break points within the Procurement Journey that can be used as review points for sign off and approval to proceed to the next stage of the process.

Please check your individual organisation's policy regarding signatures.

Suggested review and sign off points are:

- at Project Initiation
- after Initial Opportunity Assessment
- for approval of Strategy including budget
- for approval of Contract Notice, Selection Stage and/or ITT
- at Contract Award stage
- at Implementation stage

Throughout the Procurement Journey you will see reference to these sign off points at the relevant sections, with accompanying documents/templates. Any review and agreement to the project plan should be subject to your Organisation's governance arrangements.

For Care and Support Services

Please be aware that where the term "Commodity" is used in the Procurement Journey, this can equally refer to services.

Where a contract includes a mix of services that include Care and Support Services the categorisation of the contract into a Care and Support contract will depend on whether the majority of the contract cost is for those services. Where the cost is made up of more than 50% of those services then the contract will be Care and Services and vice versa. For contracts valued between £50,000 and the threshold for care & support services i.e. contracts below the regulated threshold, where the cost of the services is evenly split i.e. 50-50, the contract is deemed to be a Care and Support Services contract.

For Care and Support Services it is important to refer to the guidance contained in the **Care and Support Services Station.**

You should use lessons learned from previous contracts/procurement exercises to inform your new strategy. As you progress through the Journey you should constantly re-inform your strategy with new information.

Consideration **must** be given to **Planning**, **Sustainable Procurement** and **Risk Management** throughout the Journey and records should be kept for audit purposes.

Please note that purchases of goods and services may routinely be the subject of **Freedom of Information (FoI)** requests.

All Route 2 Procurement Exercises must be conducted in line with any relevant requirements laid out in your Organisation's Procurement Strategy. **Please ensure this guidance is used in conjunction with the internal governance, policies and procedures for your Organisation.**

You are now ready to begin Route 2 of the Procurement Journey.