Standstill

The standstill period is a defined period of time between the notice of the contract award decision and the award of the contract.

The purpose of the standstill period is to:

- allow unsuccessful tenderers to consider the feedback on their submissions; and
- give unsuccessful them an opportunity to ask for further information or call for a review of the decision.

These guidelines can be used to notify the successful and unsuccessful tenderer(s) at the start of the standstill period.

Please note:

In all cases, "days" are calendar days and not working days. The final day must however be a working day in Scotland.

Standstill Timescales

Open or close

There are defined timelines for standstill that must be followed before your organisation can enter into a contract.

These do not apply where:

- the contract or framework agreement is exempt from the requirement for prior publication of a contract notice;
- there are no unsuccessful tenderers; and
- a notice is not required to be given under **regulation 85(4) of the Public Contracts (Scotland) Regulations 2015** (notices of decisions to award a contract or conclude a framework agreement).

The standstill period is 10 days where the standstill notice is sent to all tenderers by electronic means. The 10 days end at midnight at the end of the 10th day after that on which the last notice is sent.

Where the notice is sent to any tenderers by other means, e.g. by post, the standstill period is 15 days ending at midnight at the end of the 15th day after that on which the last notice is sent.

Unsuccessful Tenderer Concerns

Open or close

If unsuccessful tenderers have any concerns about the process, and/or its outcome, they should be raised during the standstill period.

Before approaching the court seeking any legal remedies, a tenderer must inform the Organisation and explain the basis for its court application. The Organisation will usually be aware of any legal challenge prior to the end of the mandatory standstill period.

When court action has commenced, your Organisation cannot award the contract unless the court permits this. This is usually after your Organisation has successfully applied to the court.

Even after contract award, a supplier can approach the court seeking damages (see remedies section). The standstill notice communicates the intent to award contract and should be sent as soon as possible after the contract award decision has been made.

A notification must also be issued to each candidate providing, where applicable, the grounds for any decision:

- not to conclude a framework agreement for which there has been a call for competition;
- not to award a contract for which there has been a call for competition;
- to recommence the procedure; or
- not to implement a **Dynamic Purchasing System (DPS)** for which there has been a call for competition.

Standard template notices can be found at: **Standard Forms and Documentation.**

Your Organisation can withhold certain information regarding the contract award, where its release would prevent the enforcement of the law or be contrary to the public interest, would affect the commercial interests of particular tenderer(s)(public or private) or may impact fair competition between tenderers.

As with all aspects of the Procurement Journey, the activities at this stage must be carried out in a carefully managed way that supports the **Principles of Procurement**

In addition to the standstill notice the, Organisation must also respond within 15 days to a written request from a tenderer to:

- advise an unsuccessful tenderer of the reasons for the rejection of its request to participate;
- inform an unsuccessful tenderer of the reasons for the rejection of its tender, including any decision that the goods or services do not meet the performance or functional requirements;
- in the case of an unsuccessful tenderer which has not been informed by a standstill notice, confirm the characteristics and relative advantages of the successful tender, including the name of the successful tenderer; and
- provide the successful tenderer with a description of any improvements the Organisation considers that they could have made to their tender.

Please note, if the commodity is deemed to be suitable to be set up as a catalogue, the buyer should set up the successful tenderer on the PECOS Content Management system to ensure that they can prepare the catalogues, where it has not already been done.

Challenges During Standstill

Open or close

If court proceedings are served to an Organisation during the standstill period, then the Organisation cannot enter into the contract.

Organisations must ensure a process is in place to inform all relevant staff when proceedings are served. This process should also ensure that appropriate action is taken.