

Supplier Guidance: Responding to Tenders

A guide on responding to tenders for public contracts



Explaining the rules

Understanding how to respond to tenders

This guidance is aimed at suppliers to help identify the key steps in the procurement process. The public sector are bound by legislation when purchasing goods, works and services and this guide is to help suppliers know where to find contract opportunities

and highlight what suppliers need to be aware of when bidding for contracts under the different processes – Quick Quotes, Regulated and EU-Regulated Procurement.

1 “Public Contracts Scotland”

What is it?

All public sector bodies in Scotland must advertise and award contracts on [Public Contracts Scotland](#) (PCS) where the value of the contract meets certain thresholds. The threshold for a regulated procurement is £50,000 for goods and services and £2 million for works. EU-regulated procurements are advertised in OJEU as well as PCS. Anything below these thresholds will be considered as low value and individual contracting authorities will have their own tendering thresholds in place and this could mean that contracts below £50,000 are also advertised as a tender.

Public Contracts Scotland is the national advertising portal for the Scottish public sector and this is where you will find contract notices for both EU-regulated procurements and regulated procurements. Buyers will also use the “Quick Quote” facility on PCS to invite suppliers to quote for below threshold contracts. PCS can also be used to reserve contracts for supported businesses.

Once a contract has been awarded, the contract award notice will be published on PCS.

What do I need to do?

Suppliers should register with PCS and set up email alerts aligned with the business type to receive notifications of new opportunities. There are a number of [User Guides](#) available to help set up a profile.

2 “Quick Quotes”

What is it?

Quick Quotes is a facility available on PCS and is used for purchases that are considered to be low value and low risk. A minimum of 3 quotes would be requested from registered suppliers who have the experience and expertise needed.

Only suppliers who are requested to quote can submit a response. An Invitation to Quote (ITQ) will be issued which will contain all of the information needed to prepare your quote. This will include terms and conditions and evaluation criteria.

What do I need to do?

- Supplier profiles need to be kept up to date as this is what the buyer will use when deciding whether to invite a supplier to quote
- Read the ITQ carefully, this is where details will be found on how and when to submit a response, what the evaluation criteria is and how to contact the buyer with any queries

- The contract would normally be awarded on the basis of Most Economically Advantageous Tender (MEAT) where the evaluation criteria would be a combination of both Price and Quality
- Bids will be evaluated and scored based on the response provided so make sure it is clear and the question is answered fully
- Bids must be returned by the stated date and time or may not be considered
- After the evaluation has been completed, suppliers will be informed via PCS.

3 “Tendering – Regulated and EU-Regulated Procurement”

What is the difference between a Regulated and an EU-Regulated Procurement?

Where a contract is over £50,000 for goods and services and over £2 million for works, this is classed as a **Regulated Procurement** under the **Procurement Reform (Scotland) Act 2014**. Contracts that meet this threshold are subject to duties under the Reform Act and are legislated by the **Procurement (Scotland) Regulations 2016**. The Supplier Guidance on Legislation and Regulations provides more information on this.

A regulated procurement must be advertised on PCS and will follow a single stage process where anyone can submit a bid, or a two-stage process where a number of shortlisted suppliers would be invited to tender if they passed the first stage.

An EU-Regulated Procurement is subject to different legislation, and the advertising thresholds are higher. The Public Contracts (Scotland) Regulations 2015 are applicable where a public contract for goods and services is over £181,302 and a public works contract is over £4,551,413. The most common routes to market are the Restricted and Open procedures. These contracts are advertised in PCS and also in the Official Journal of the European Union (OJEU).

What do I need to know about?

The table below provides a summary of the main steps of the procurement journey and how this affects a regulated or an EU regulated procurement.

Step in the Process		Regulated Procurement (Goods and Services >£50k Works >£2m)	EU-Regulated Procurement (Goods and Services >£181k Works >£4.5m)
PRE-TENDER			
4.	Pre-Tender Engagement	In certain procurements, buyers may require some input from suppliers to make sure that they fully understand the market and develop robust specifications. In these cases, supplier open days may be held and these may be advertised on the Supplier page of APUC's website, the Supplier Development Programme Events page and also on PCS.	
5.	Advertising – Contract Notice	<p>All contracts over the relevant thresholds must be advertised on PCS.</p> <p>It is not mandatory for an ESPD to be issued with a regulated procurement however this is considered best practice.</p>	<p>All contracts over the relevant thresholds must be advertised on PCS and OJEU.</p> <p>It is a mandatory requirement for an ESPD to be issued for an EU-Regulated procurement.</p>
6.	ESPD	<p>An ESPD must be used in an EU-Regulated procurement and the contract notice will contain details of the minimum standards, selection and exclusion criteria.</p> <p>The ESPD will also contain details of the method for shortlisting should this be a 2-stage process (Regulated) or a restricted procedure (EU-Regulated).</p> <p>Suppliers must self-declare that they can meet the minimum standards, selection and exclusion criteria. Documentary evidence may be requested at any stage of the process; however, this is most likely to occur prior to the award of the contract in a single stage (Regulated) or open procedure (EU-Regulated). In the 2-stage or restricted process, the buyer is likely to ask for this earlier to determine who is to be shortlisted and issued the ITT.</p>	
AWARD PROCEDURES AND CONTRACT TYPES			
7.	Procedures	<p><u>Single Stage:</u></p> <p>Anyone interested in the tender may submit a bid.</p> <p><u>2-Stage:</u></p>	<p><u>Open Procedure:</u></p> <p>Anyone interested in the tender may submit a bid.</p> <p><u>Restricted Procedure:</u></p>

		<p>The buyer can restrict the number of bidders invited to tender and bidders will be assessed at the first stage to determine who will be shortlisted.</p>	<p>When there is likely to be a lot of interest in an opportunity, the buyer can use the restricted procedure which restricts the number of bidders to be invited to tender.</p> <p>The first stage is the Selection stage where buyers are looking to establish if the supplier has the capacity and capability to meet the requirement. Bidders must complete the ESPD and they will be assessed on this to determine a shortlist.</p> <p>The second stage is called the Award stage where shortlisted bidders will be issued with an ITT.</p> <p><u>Other Procedures:</u></p> <p>There are a number of other procedures that may be used but these are less common:</p> <ul style="list-style-type: none"> • Competitive Procedure with Negotiation • Competitive Dialogue • Innovation Partnership • Negotiated Procedure without prior publication
<p>8.</p>	<p>Framework Agreements</p>	<p>A framework agreement can be set up for a single supplier or for multiple suppliers. The agreement itself is not a binding contract, but it does set out the terms and conditions for subsequent call-offs. They are most likely to be set up for EU-Regulated procurements as they are normally set up on a collaborative basis with multiple organisations being able to access them.</p> <p><u>Single Supplier Framework:</u></p> <p>Buyers can purchase directly from the supplier without the need for further competition. Buyers can consult with the supplier to supplement their tender but this must not substantially alter the original agreement.</p> <p><u>Multi Supplier Framework:</u></p> <p>There are 2 routes to award a contract however the specific details of this will be set out in the framework agreement.</p> <p>Direct Award - where this is allowed a contract can be placed directly with a supplier</p>	

		Mini Competition – a further competition subject to award criteria will be carried out with the suppliers named on the framework. The contract will be awarded to whoever has submitted the best tender.	
9.	Bid Clarification	During the evaluation stage, the buyer may contact bidders to clarify aspects of their tender – for example, this could be if bids are unclear or there are minor errors. Buyers must keep an audit trail of these communications so if PCS-T is being used then this would be via the messaging area. If PCS-T is not being used then communications will be by email.	
10.	Tender Award and Debriefing	Bidders will be notified of the outcome of the process and if unsuccessful this will include the scores and the name of the successful tenderer. Some buyers may include the relative advantages and characteristics of the successful tender in the letter, but if this is not included then suppliers can ask for further debrief information within 30 days of receipt. The buyer then must respond within 30 days of the debrief request.	For an EU-Regulated procurement, the successful and unsuccessful bidders will be notified of the intention to conclude the contract in a “standstill notice”. The “standstill” period lasts for a minimum of 10 calendar days and the contract cannot be entered into until this period has elapsed and there have been no challenges. In contrast to a regulated procurement, the buyer must include a summary of the reasons that their bid was unsuccessful. A bidder can request further information in writing and will receive a response within 15 days.
11.	Contract Award Notice	A contract award notice must be published on PCS within 30 calendar days of the award date.	A contract award notice must be published in OJEU within 30 calendar days of the award date. This will also appear on PCS. If the contract was estimated to be over £4m and the procurement documents stated that there would be Community Benefits Clauses imposed, the contract notice must include a statement of the expected benefits.
		Where a contract has been awarded as a result of a mini competition from a Framework Agreement, a contract award notice must be published where the value exceeds £50k for goods and services).	

CONTRACT IMPLEMENTATION / CONTRACT AND SUPPLIER MANAGEMENT

12.	Post-Award	Once a contract is awarded it is likely that the successful supplier will be invited in to meet with both procurement and the stakeholder(s). This is to ensure that both parties are aware of their roles and responsibilities and timescales for implementation. This may include setting up catalogues and attending events/presentations to raise awareness.
13.	Contract and Supplier Management	Depending on the level of risk, the value and the nature of the contract, arrangements may be made for contract management. There are various methods and techniques available to undertake this and can include review meetings, measuring supplier performance with balanced scorecards or monitoring KPIs. The purpose is to maintain good relations between the supplier and the customer, effectively administer the contract and to ensure it is being delivered to the required standards.

8 Further Information

For further information and any queries, please do not hesitate to contact the Development and Sustainability Team:

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