Procurement Procedures

For low value procurement exercises, which are also low risk, the buyer may elect to run a quotation or a tender.

For higher value regulated procurements public sector buyers must choose to tender using one of six main procurement procedures. Some buyers may choose to follow one of these procedures even if the contract is estimated to be lower than the thresholds.

The most commonly used procedures are the Open Procedure and the Restricted Procedure, which both use the SPD to ask selection questions.

Open Procedure

An Open Procedure is where the procurement exercise is open to all suppliers. This means that any interested supplier can bid, within the tender timescales, and the buyer cannot limit the number of bids it receives.

This is normally used by public sector buyers where there is likely to be limited interest in an opportunity, to ensure maximum competition (and therefore value for money for the taxpayer). This procurement procedure is a one stage process i.e. all selection and award criteria are evaluated in one stage

The main points in the Open Procedure are:

- the contract is advertised by the public body on Public Contracts Scotland (PCS). The Contract Notice will clearly state that the contract is being carried out using the Open Procedure
- suppliers read the Contract Notice and, if interested in bidding, should note interest in the contract to view the invitation to tender (ITT) and any associated documents in PCS i.e. the procurement documents (or PCS-Tender if the buyer is using this system)
- public bodies must make available all of the procurement documents via the internet. This access must be unrestricted, free of charge and made available from the date of publication of Contract Notice. This is the only procurement process where the buyer must make the procurement

documents available at the outset of the process.

How Long Do I Have to Respond?

The closing date for the receipt of open procedure bids is generally no less than 35 days from the day after the date the contract notice is automatically sent via Public Contracts Scotland (PCS) for UK-wide publication. This timescale can be reduced if a Prior Information Notice was issued or where bids will be accepted electronically.

The buyer will detail all of the tender timelines in the tender documents. You should ensure you read and understand these.

If there is a justifiable reason to change the tender closing date, the new date will be notified to all bidders. If you have already submitted a tender, then you should be given the opportunity to withdraw your original bid and submit a revised one.

What Do I Need to Do to Respond to an Open Procedure Tender?

- register on Public Contracts Scotland
- formally note interest in the contract on PCS (or in PCS-T if using)
- access the procurement documents via PCS
- respond to the tender either by uploading documents via PCS or respond using PCS-T (the buyers instructions will tell you which system to use)
- ensuring you meet the deadlines.

It is the responsibility of all suppliers to ensure that their bid is submitted in accordance with the rules of the competition and before the specified deadline. Non-conformant bids will be disqualified from the competition.

Restricted Procedure

The Restricted Procedure is used where there are likely to be many suppliers interested in the opportunity. Buyers using the Restricted Procedure can then limit the number of bidders they invite to tender to those with the best capacity and capability to meet the contract requirements. This means bidders who do not meet this criteria do not waste time and resources completing a full tender

response.

This procedure has two distinct stages:

Selection Stage

The first stage is where interested suppliers need to complete a Single Procurement Document (SPD). The buyer will publish a Contract Notice which will include details of how to access the SPD i.e. via the online SPD Module in Public Contracts Scotland or via PCS-Tender. Interested bidders will then have a minimum of 30 days to respond.

The SPD is a list of relevant questions that suppliers need to answer about their capability and experience. Examples of the questions asked include:

- are you bidding on your own or with any other suppliers?
- have you been subject to criminal convictions in the last five years?
- do you hold membership and/or qualifications of a specific body? (as defined by the buyer)
- do you hold insurance certificates? (for values as defined by the buyer).

Completing the SPD allows bidders to confirm (or self-declare) that they meet the relevant selection and exclusion criteria to the buyer i.e. that the responses given meet the buyers requirements and there is no reason for the supplier to be excluded from the procurement exercise.

The procurement officer will then shortlist the bidders who meet the criteria to proceed onto the next stage.

Suppliers who are shortlisted may be asked to provide evidence and supporting documents that they meet the relevant exclusion and selection criteria as declared in their SPD response. This will normally be done when the buyer has selected their preferred supplier and is about to award the contract, but could be asked for earlier in the process.

NOTE: The Selection Stage does not ask how you would plan to deliver the specific contract.

Award Stage

Suppliers shortlisted at the selection stage will all be issued with the procurement documents.

There will be a minimum of 5 companies invited to tender (where there are at least 5 suitably qualified or experienced companies).

Bidders should follow the instructions included in the tender documents, and prepare and submit their bid as they would with an Open Procedure.

It is during this Award Stage that you will be asked questions about how you will meet the award criteria for a specific tender in the future. Examples of questions are:

- please provide a project plan regarding how you will mobilise and implement this contract
- please detail the resources you will put in place to supply and support this contract.

Bidders will normally be given a minimum of 30 days to submit their bid (or 25 days if the buyer will accept electronic bids). These timings can also be reduced further due to other factors e.g. extreme urgency, but the buyer will specify the timings involved in their tender documents.

How Long Do I Have to Respond?

For Stage 1 Selection, you will be given a minimum of 30 days to respond from the day the Contract Notice is sent for publication.

For Stage 2 Award, you will be given a minimum of 30 days to respond to the tender. This timescale can be reduced if a Prior Information Notice was issued or where bids will be accepted electronically.

The buyer will detail all of the tender timelines in the tender documents. You should ensure you read and understand these.

If there is a justifiable reason to change the tender closing date, the new date will be notified to all bidders. If you have already submitted a tender then you should be given the opportunity to withdraw your original bid and submit a revised one.

What do I need to do to respond to a Restricted Procedure tender?

- register on Public Contracts Scotland

- formally note interest in the contract on PCS (or PCS-T if using)
- access the procurement documents via PCS (or PCS-T if using)
- respond to the tender either via PCS or PCS-T (the procurement buyers instructions will tell you which system to use) ensuring you can meet the deadlines.

It is the responsibility of all suppliers to ensure that their bid is submitted in accordance with the rules of the competition and before the specified deadline. Non-conformant bids will be disqualified from the competition.

Some General Points:

- due to the Restricted Procedure including two stages the process will normally take longer than an Open Procedure
- as the buyer can shortlist the number of bidders at the first stage, during the second stage you are competing against fewer bidders
- the buyer does not need to provide all procurement documents at the beginning of the exercise: only the SPD and adequate information to let you decide whether you wish to bid or not
- documents must be provided by the buyer via the internet. Normally buyers will use either PCS or PCS-Tender.

Competitive Dialogue

The Competitive Dialogue procedure can be used by a buyer where the contract cannot be awarded without prior negotiation because of the nature or complexity of the goods or services required.

This tends to be because:

- the needs of the contract cannot be met without adaptation of readily available solutions
- the supplies or services required include design or innovative solutions
- the technical specifications of the supplies or services cannot be established precisely by the buyer
- the public body has already tried to procure the goods or services using the Open or Restricted procedure but only received irregular or unacceptable tenders;

Under this procedure:

- the Contract Notice will make it clear that the Competitive Dialogue procedure is being used and will also set out the award criteria which the public body will apply during the dialogue stage
- any supplier may make a request to participate
- the supplier must submit a completed SPD within the timelines set out by the buyer
- following assessment of the submitted SPDs, the buyer will conduct a dialogue with the suppliers who have met the selection criteria. The aim of the dialogue will be to develop one or more suitable alternative solutions capable of meeting the requirements. On the basis of this dialogue the buyer will select suppliers to invite to tender

Details of the procedure can be found in The Public Contracts (Scotland) Regulations 2015.

How Long Do I Have to Respond?

You will normally be given a minimum of 30 days to respond from the day the Contract Notice is sent for publication to submit your selection stage documents.

The invitation to Submit a Final Tender will not be made available at the same time as the Contract Notice, as dialogue needs to occur and be finalised beforehand.

For the Award stage you will normally be given a minimum of 30 days to respond to the tender. This timescale can be amended depending on whether a Prior Information Notice was issued or where bids will be accepted electronically.

The buyer will detail all of the tender timelines in the tender documents. You should ensure you read and understand these.

If there is a justifiable reason to change the tender closing date, the new date will be notified to all bidders. If you have already submitted a tender then you should be given the opportunity to withdraw your original bid and submit a revised one.

What do I need to do to respond to a Competitive Dialogue tender?

- register on Public Contracts Scotland (or PCS-Tender) if required

- formally note interest in the contract
- access the procurement documents available via PCS or PCS-Tender, as required by the buyer
- respond to the Selection stage of the process
- if successful, participate in the dialogue sessions held
- access to the final tender documents via PCS or PCS-Tender, as required by the buyer
- respond to the tender, either via PCS or PCS-Tender (the buyers instructions will tell you which system to use) ensuring you meet the deadlines.

It is the responsibility of all suppliers to ensure that their bid is submitted in accordance with the rules of the competition and before the specified deadline. Non-conformant bids will be disqualified from the competition.

Competitive Procedure with Negotiation

The Competitive Procedure with Negotiation can be used by a buyer where the contract cannot be awarded without prior negotiation because of the nature or complexity of the goods or services required.

This tends to be because:

- the needs of the contract cannot be met without adaptation of readily available solutions
- the supplies or services required include design or innovative solutions
- the technical specifications of the goods or services required cannot be established precisely by the buyer
- the public body has already tried to procure the goods or services using the Open or Restricted procedure but only received irregular or unacceptable tenders.

Under this procedure:

- the Contract Notice will make it clear that the Competitive Procedure with Negotiation is being used and will request the completion of a SPD
- any supplier may make a request to participate
- the supplier must submit a completed SPD within the timelines set out by the buyer

- following assessment of the submitted SPDs, the buyer will shortlist suppliers who have met the selection criteria and invite them to the initial tender phase
- the minimum number of suppliers who can be shortlisted is three (if three meet the selection criteria requirements)
- this can be followed by several rounds of negotiation in order for the public body to seek approved offers (negotiations should only improve the bids and not cover the contract fundamentals
- negotiations may result in a new or revised tender being issued
- finally, the buyer will make a contract award.

How Long Do I Have to Respond?

You will normally be given a minimum of 30 days to respond from the day the Contract Notice is sent for publication to submit your selection stage documents.

For the award stage you will normally be given a minimum of 30 days to respond to the tender. This timescale can be amended depending on whether a Prior Information Notice was issued or where bids will be accepted electronically.

The buyer will detail all of the tender timelines in the tender documents. You should ensure you read and understand these.

If there is a justifiable reason to change the tender closing date, the new date will be notified to all bidders. If you have already submitted a tender then you should be given the opportunity to withdraw your original bid and submit a revised one.

What do I need to do to respond to a Competitive Procedure with Negotiation tender?

- register on Public Contracts Scotland
- formally note interest in the contract (or PCS-T, if using)
- access the procurement documents available via PCS (or PCS-T, if using)
- respond to the Selection stage of the process
- if successful, participate in the negotiations held
- access the tender documents via PCS
- respond to the tender, either via PCS or PCS-Tender (the buyers instructions will tell you which system to use) ensuring you can meet the deadlines.

It is the responsibility of all suppliers to ensure that their bid is submitted in accordance with the rules of the competition and before the specified deadline.

Non-conformant bids will be disqualified from the competition.

Innovation Partnership

Innovation Partnerships can be used where there is no existing product or solution currently available on the market. This procedure is used to stimulate innovation.

Under this procedure:

- the Contract Notice (published by the buyer via PCS) will make it clear that the Innovation Partnership procedure is being used and include the minimum requirements
- any supplier may make a request to participate
- the request to participate must be accompanied by an SPD
- following assessment of the submitted SPDs, the buyer will use a negotiated approach to invite suppliers (a minimum of three if at least three are interested) to submit ideas to develop innovative supplies or services. There can be several tender stages: the buyer will negotiate with all bidders at all of these stages to improve content except at the final tender stage. The minimum requirements and award criteria of the tender cannot be negotiated
- the public body is permitted to award partnerships to more than one supplier.

Commercial confidentiality is of key importance when using this procedure.

Negotiated Procedure without Prior Publication

This procedure can only be used in narrowly defined, exceptional circumstances, e.g.:

- where no tenders, no suitable tenders or no suitable requests to participate were submitted in response to an earlier open or restricted procedure
- where for technical or artistic reasons, or the protection or exclusive rights, the contract can only be carried out by a particular supplier
- due to extreme urgency as a result of unforeseen events e.g. flooding.

In these exceptional circumstances the buyer will approach one (or more) suppliers seeking to negotiate the terms of the contract.