Restricted Procedure

The Restricted Procedure should be used for procurement exercises where market analysis has shown many bidders could meet your needs and bid.

The Restricted Procedure is a two-stage process. The first stage is a **selection process**, where the bidders' capability, capacity and experience to perform the contract is assessed using the **Single Procurement Document** to shortlist bidders. This means the number of bidders can be reduced at the selection stage.

The second stage is when the **Invitation to Tender** is issued and the bids are assessed to determine the most economically advantageous tender, the basis of contract award. Only the shortlisted bidders are invited to submit a tender. This will minimise the cost for the bidders and your organisation.

All Organisations are free to use this procedure, in any circumstances and for any type of contract and Framework Agreement.

Please Note

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

Care and Support Services

Open or close

For many care and support services contracts, an organisation may use the procurement procedures, tools and techniques of its choosing. You should follow a procurement procedure, as a matter of best practice, that is proportionate to the value of the contract and to take account of some fundamental considerations (for example, the **Principles of Procurement** and **Fair Work Practices**).

When doing so, you may choose to adapt or streamline the Restricted Procedure described in the **Public Contract (Scotland) Regulations 2015**. If you do so, you are not obliged to follow

the detailed procedural requirements set out in those Regulations. You should therefore not refer to the Regulations in the tender documentation issued to participants, as this may create an expectation that the detailed procedural requirements will be followed. In all cases, you should ensure that the procurement process is described accurately and clearly, and then adhered to.

Restricted Procedure Stages

Open or close

Stage 1

Selection Stage

- Following a call for competition, any bidder may submit a request to participate.
- Buyers must issue a **Single Procurement Document (SPD)** for procurement exercises over the **threshold** (route 3) and it is recommended that it is also used for all route 2 procurements. The Selection stage evaluates the bidder's capacity and capability, not how the bidder will deliver the requirement. Therefore, this is a backward-looking process i.e. you cannot consider matters specific to performance of the contract at this stage.
- You must state in the **Contract Notice** or in the Invitation to Confirm Interest:
    - your objective and non-discriminatory criteria or rules that you intend to apply; and
    - the minimum number of bidders that you intend to invite and, where applicable, the maximum number.
- Timescales to consider: bidders must be given a minimum of 30 days (from the day the Contract Notice is sent for publication) to respond to a call for competition.

Invitation to Tender (ITT) Stage:

- The minimum number of bidders is five and
- the number of candidates invited must be sufficient to ensure genuine competition. Note: if the number of bidders meeting the selection criteria is fewer than five the procurement can still proceed.
- You must issue ITT documents for completion by bidders successful at the Stage 1 selection stage.

- Timescales to consider: bidders must be given a minimum 30 days to respond to the ITT (or 25 days where the organisation has indicated that it will accept an electronic submission).

Timescales to Consider

Open or close

Bidders must be given a minimum of 30 days (from the day the Contract Notice is sent for publication) to respond to a call for competition.

Sub-central buyer organisations may set the time limit for the receipt of tenders. However this must be done by agreement with the bidders successful at selection stage. The same time limit must be applied to all bidders.

Where a time limit cannot be agreed a minimum of 10 days must elapse between despatching the ITT and the deadline for submission.

Note: A sub-central buyer organisations is any Organisation which does not belong to Central Government or National Health Services.

Restricted Procedure with Publication of a PIN

Open or close

- Organisations can choose to use a **Prior Information Notice (PIN)** to shorten the time period for the receipt of tenders.
- If using a PIN a minimum of 10 days needs to elapse after the dispatch of the ITT before the closing date for the receipt of tenders if:
- the PIN includes certain information required for the Contract Notice, if it is available when the PIN is published; and
- the PIN is sent for publication between 35 days and 12 months before the Contract Notice is published.

Restricted Procedure – Urgency

Open or close

Organisations are allowed to shorten certain deadlines in case of urgency.

- Urgency needs to be suitably justified. This need not be an extreme urgency from unforeseen events and/or not caused by your Organisation.
- Your contract notice must include justification.
- After the despatch of your Contract Notice, you need to allow at least 15 days for the submission deadline of selection stage information.
- Following the completion of your selection stage assessment you may despatch the ITT.
- A minimum of 10 days must then be allowed before the submission deadline.
- Sub-central Organisations may agree on the submission deadline with bidders. If there is no agreement, a minimum of 10 days must be allowed by you for the submission of tenders

Issuing Documents

Open or close

In a Restricted Procedure, it is not necessary to make all procurement documentation available when the **Contract Notice** is published.

It is necessary that your organisation provides sufficiently precise information to allow bidders to identify the nature and scope of the requirement. From this information the bidders will decide whether to express an interest to participate i.e.. it is essential that the **SPD (Scotland)** is used and is available when the Contract Notice is published.

All **Procurement Documents** should be made available via the internet with free and unrestricted access. If exceptions apply, which mean that the Procurement Documents cannot be issued electronically, the Contract Notice must detail how the Procurement Documents will be made available.

If the documents cannot be accessed immediately by electronic means, then the timescales should be extended by five days. The exception is in a case of duly substantiated urgency.

The ITT time limits (for receipt of bidder tender submissions) should be proportionate to the contract complexity and the time required to prepare and

submit a bid. You must take into account the minimum requirements when setting this time limit.

Time limits for the receipt of tenders must be extended:

- if you significantly change the procurement documents;
- where additional information requested by a bidder in good time is not supplied at least six days (or four days in accelerated procedures) before the time limit of the receipt of tenders.

The length of extension of a tender deadline should be proportionate to the complexity of the change and/or the additional information being provided.

To proceed with a tender extension the necessary approval should be obtained in accordance with your internal governance procedures.

If the date is amended, the new date should be notified to all tenderers. If any tenderer has already submitted a bid then they should be given the opportunity to withdraw their original bid and submit a revised one. This revised bid should meet the extended tender deadline.

Clarification of Bids

Open or close

You cannot negotiate on fundamental aspects of contracts i.e. areas likely to distort competition such as price.

Dialogue with bidders should be limited to requests for clarification.

You should record any discussions with bidders. Meetings which discuss proposals/requirements should be avoided as these may distort competition. For more information please refer to **Post Tender Clarification.**

Principles of Procurement

Open or close

The activities at this stage must be carried out in a carefully managed manner that supports the **Principles of Procurement.**