

# SELLING TO THE SCOTTISH PUBLIC SECTOR

**T**here is a legal requirement on public sector bodies to adequately advertise contract opportunities – this may be done through authority websites, press, trade publications or specialist publications advertising public sector contracts. The Scottish public sector is in the process of setting up a portal to facilitate advertising of public sector contracts.

For Scottish Executive opportunities, suppliers should express an interest by completing the form on the Executive's website, which can be found at: [www.scotland.gov.uk/Topics/Government/Procurement/Selling/SubmitDetails](http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/SubmitDetails)

Suppliers' details are then held in a database. When the Executive is procuring goods and services, the database will usually be one of the sources used. The Scottish Executive does not operate approved lists of suppliers and registration of details does not guarantee that suppliers will be invited to bid for particular, or indeed any, requirements.

For certain construction-related contracts the public sector makes use of the Constructionline database. For more information, please contact Constructionline on **0131 244 7482/7480**

## WHERE ARE CONTRACTS ADVERTISED?

Contracts are advertised on the Executive's website at: [www.scotland.gov.uk/Topics/Government/Procurement/Selling](http://www.scotland.gov.uk/Topics/Government/Procurement/Selling)

Contracts are also often advertised in the national press. Many higher-value contracts may be advertised in the Official Journal of the European Union (OJEU).

Organisations such as the Glasgow and Highlands and Islands European Information Centres and BiP Solutions Ltd offer search facilities on subscription, which may make it easier to identify relevant OJEU advertisements.

## DO SMALL FIRMS HAVE AN OPPORTUNITY TO COMPETE WITH LARGER ORGANISATIONS?

The Scottish public sector recognises the benefits of doing business with small and medium-sized enterprises (SMEs) and has, for some time, made extensive use of their services. Given the nature and often comparatively large size of public sector contracts, there will inevitably be circumstances when small firms will have the best opportunities as sub-contractors rather than main.

The Executive's aim is to ensure that, wherever possible and consistent with the need to secure value for money, SMEs have the opportunity to compete for public sector business.



## WHAT IS THE EPROCUREMENT SCOTL@ND SERVICE?

The eProcurement Scotl@nd service (ePS) is one of the most comprehensive and successful e-government initiatives in the world. ePS is enabling the entire Scottish public sector, including central government, local government and the NHS, to win the cost savings and efficiencies of e-procurement. It is a fully hosted and managed 24/7 e-procurement service which supports the full purchase-to-pay cycle, providing a range of services including e-sourcing (electronic tendering and auctions) and transactional purchase-to-pay solutions.

Further details about ePS can be found at: [www.eprocurement.scotland.com](http://www.eprocurement.scotland.com)

## WHAT IS THE SCOTTISH EXECUTIVE'S POLICY ON EQUAL OPPORTUNITIES?

No one should be denied opportunities because of their race or ethnicity, their disability, their gender or sexual orientation, their age or religion. This principle underpins all the work of the Executive.

Further details on the Scottish Executive's policy on equal opportunities are available at: [www.scotland.gov.uk/Topics/People/Equality](http://www.scotland.gov.uk/Topics/People/Equality)

## WHAT ABOUT SUPPORTED EMPLOYMENT ENTERPRISES?

European procurement legislation allows authorities to reserve contracts for supported factories and businesses. However, these contracts cannot be reserved for local businesses – opportunities must be available to businesses across the EU.

Guidance on the application of reserved contracts is available at: [http://www.ogc.gov.uk/documents/supported\\_factories\\_and\\_businesses.pdf](http://www.ogc.gov.uk/documents/supported_factories_and_businesses.pdf)

## WHAT IS THE POLICY TOWARDS ENVIRONMENTALLY FRIENDLY PURCHASING?

The Executive's environmentally friendly purchasing policy ensures, whenever possible, that it and its suppliers minimise any adverse impact on the environment. The Executive also actively encourages the use of recyclable materials in packaging and packing and is committed to buying recycled or reusable products where these are available, affordable and fit for purpose.

Scottish taxpayers have a right to expect that their money is spent both wisely and fairly. It is, therefore, the Scottish Executive's policy that value for money through competition should be at the heart of public procurement. The Executive is also committed to playing a full role in Scotland's sustainable development and has implemented comprehensive environmental policies in support of this goal. When we buy goods and services we aim to do so in a way which minimises impact on the environment. We hope that our suppliers share our commitment to continuous environmental improvement.

In an effort to provide guidance to small businesses the Environment Protection Agencies of Scotland, England and Wales and Northern Ireland's Environment and Heritage Service joined forces to develop NetRegs – a unique online resource to help businesses understand their environmental obligations.

The website [www.netregs.gov.uk](http://www.netregs.gov.uk) explains complex legislation, using plain language and also provides good practice advice, which can help business save money and become more competitive. The website is anonymous, as there is no need to register, and includes general management guidelines on regulations governing issues such as packaging, energy use and waste disposal, that apply to most businesses.

It is important that suppliers keep pace with environmental developments in their particular markets; failure to do so may mean that they will find it increasingly difficult to compete. Those who fail to comply with environmental legislation may be excluded from selling to the Executive and development of environmentally preferable goods and services and use of recycled or renewable materials is likely to offer a competitive advantage.

These are intended as positive messages. The Executive wants its suppliers to play a full part in helping it meet its environmental objectives and encourage improved performance. The Executive also wants to be kept informed of new and developing environmentally preferable products, technologies or services.

Suppliers should also read Public Procurement and Sustainable Development: Guidelines for Public Purchasers and the Executive's Greening Government Operations policy statement, both of which are available on the Executive's website.

*The Executive intends to take account of environmental issues in its procurement of goods, works and services by way of the following measures:*

- where environmentally preferable goods and services are viable on cost and quality grounds and are both affordable and readily available, they will usually be specified to the exclusion of others
- whole-life costs will be taken into account in the award of contracts
- bidders will be required to disclose details of any breaches of environmental legislation; those found to have an unsatisfactory track record in complying with environmental legislation may be excluded from bidding for contracts until such time as they can demonstrate that appropriate remedial action has been taken
- all other things being equal, the Executive will, when awarding contracts, give preference to suppliers who demonstrate that the goods and services they offer are environmentally preferable
- where it is practical and economically viable to do so, the Scottish Executive intends to specify the use of renewable or recycled materials in its contracts
- where it is relevant to the product or service to be purchased, the Executive will seek evidence that suppliers have in place appropriate environmental management policies; suppliers are, therefore, encouraged to implement environmental management schemes
- suppliers claiming that their products or services are environmentally preferable will be expected to provide evidence; suppliers are, therefore, encouraged to take advantage of schemes such as Eco-labelling

Suppliers are encouraged to visit the Executive's Sustainable Scotland site at: [www.sustainable.scotland.gov.uk](http://www.sustainable.scotland.gov.uk)



## WHAT IS THE POLICY ON PAYMENTS?

The Executive believes in the importance of paying all suppliers on time, and to this end it is signed up to the CBI Prompt Payment Code. The Executive's aim is to pay all invoices on time. This will usually be 30 days from the date of receipt of a valid invoice or satisfactory receipt of the goods or services, whichever is the later. It is not the Executive's practice to pay earlier than the 30 days, unless previously agreed with a supplier.

Another initiative to help the Executive's payment performance is a move to making all its payments by BACS. As well as improved security for larger sums, BACS ensures that suppliers' money is available more quickly.

*Suppliers can also help the Executive to pay promptly by ensuring that:*

- all invoices are correctly addressed with the full name of either the department or better still the person with whom a supplier is dealing
- all invoices quote a purchase order number or other appropriate reference
- all invoices carry a contact point for invoice queries
- suppliers notify the Executive of any changes to address or payment details as quickly as possible

Providing this information will help the Executive ensure invoices are paid promptly.

## WHAT ARE THE TERMS AND CONDITIONS OF CONTRACT?

The Review of Public Procurement in Scotland by John McClelland calls for a degree of standardisation of Terms and Conditions required by the public sector from suppliers. This has not been achieved yet, but samples of Scottish Executive Standard Terms and Conditions can be found at [www.eprocurementscotland.com/toolkit](http://www.eprocurementscotland.com/toolkit) demonstrating the Executive's approach to Terms and Conditions. The Scottish Executive has a policy of applying its own Terms and Conditions to contracts. This is partly because there are certain issues which the civil service is obliged by the nature of its business to address, such as break clauses.

Suppliers are requested, when submitting a simple quotation, not to refer to their own Terms and Conditions. Suppliers will normally be provided, with the order form, a set of the Scottish Executive's Terms and Conditions.

Similarly, if suppliers are invited to tender, they will receive a set of the Scottish Executive's standard Terms and Conditions with the Invitation to Tender (ITT).

## WHAT ABOUT OFFERS OF HOSPITALITY OR GIFTS?

Public servants are obliged to follow a strict code of ethics. Relationships or hospitality which might be considered normal elsewhere may not be acceptable when dealing with public servants. Offers of inappropriate or excessive hospitality or gifts must not be made to public servants.

Any supplier found to have made such is likely to prejudice its existing contracts and/or prospects of future business.

## DISCLAIMER

This Guidance has been produced by BiP Solutions Ltd to provide assistance to those engaged in public procurement. The Guidance has been published in good faith by BiP and BiP shall not incur any liability for any action or omission arising out of any reliance being placed on the Guidance by any organisation or other person. Any organisation or other person in receipt of this Guidance should take their own legal, financial and other relevant professional advice when considering what action (if any) to take in respect of any initiative, proposal, or other involvement with public procurement, or before placing any reliance on anything contained therein.



# Expert public procurement consultancy for Buyers and Suppliers at your service



## PASS – HELPING YOU MEET KEY OBJECTIVES

The key objective of public procurement professionals is to ensure that the most suitable supplier is selected to provide goods and services on terms which are likely to offer the best value for money. The PASS service helps you meet this requirement and deliver contracts that offer best value-for-money terms with suppliers who will execute them efficiently.

## PASS CONSULTANCY

BIP's *Procurement Advice and Support Service (PASS)* provides organisations with access to experts in public procurement practices and procedures, thus helping you develop and deliver effective and efficient procurement. Our team offers a range of services to meet your specific needs. Whichever area you wish evaluated and improved, we have the experts to help.

The PASS consultancy's mission is to help you deliver the best in government procurement through:

- Practical solutions to improve procurement performance
- Innovative approaches to knowledge transfer within government
- Joined-up government
- Improved performance indicators
- Strategic direction and performance
- Opportunities offered by e-government
- Capacity to deliver change to meet identified needs
- Continuous improvement of services and challenging poor performance
- Sustainable development within decision-making processes and delivery of services
- EU-compliant processes
- Best practice procurement training

## PASS TRAINING

Our consultants can provide you with bespoke training packages to suit your needs. Consultancy and training is available for the following: environmental purchasing, partnering, evaluation, e-government, supplier debriefing, UK legal processes and precedents, contract management, EU-compliant tendering and much more.

## PASS ONLINE GUIDANCE

The PASS service provides online guidances on all aspects of the public procurement process and legal requirements: [www.bipsolutions.com/html/briefing.php](http://www.bipsolutions.com/html/briefing.php)

## PASS – EFFECTIVE DISPUTE MANAGEMENT

Contractual and procurement-related disputes are time-consuming, expensive and unpleasant. They can destroy client/contractor relationships, can add substantially to the cost of the contract, and can nullify some or all of its benefits or advantages. They can also have an impact on value for money. It is therefore in everyone's interest to work at avoiding disputes in the first place. Inevitably, however, disputes do occur and when they do the importance of a fast, efficient and cost-effective Alternative Dispute Resolution (ADR) procedure cannot be overstated. If a dispute arises, it is important to manage it actively and positively and at the right level in order to encourage early and effective settlement. Unnecessary delays and inefficiency can lead to rapid deterioration in relations and entrenchment of opinions. ADR through PADRE mediation involves the use of a trusted expert third party and is an effective alternative to litigation. PADRE mediation is provided by experts in contracting and public procurement. If you would like more details on how PADRE can help your organisation and become your mediation service of choice, telephone the PASS team on **0845 270 7055** or email [pass@bipsolutions.com](mailto:pass@bipsolutions.com).

## PASS HEALTH CHECK

The PASS service can help your organisation examine its current procurement organisational structures, strategies, processes, practices and related strengths and weaknesses. It delivers a detailed *PASS Mark Health Check Outcome Highlight Report (OHR)* that outlines areas of strength as well as those requiring further attention, and provides an outline *Project Initiation Document (PID)* designed to deliver a more effective and efficient tendering process that will help you achieve optimum performance and better value-for-money procurement.

## PASS IN-HOUSE PRESENTATIONS

PASS consultancy can provide you with in-house presentations directed to buyer or supplier. Each presentation will be bespoke to your requirements, whether they be with regards to improving your tendering practices or your procurement strategy or processes. Contact: [pass@bipsolutions.com](mailto:pass@bipsolutions.com)



The *PASS Mark Health Check* is a process-based evaluation technique that helps identify how your company can develop more effective processes when tendering for public sector contracts.

For further information on the **PASS** service, contact our **PASS Team** on **0845 270 7055**, email [pass@bipsolutions.com](mailto:pass@bipsolutions.com) or visit [www.bipsolutions.com/pass/](http://www.bipsolutions.com/pass/)