

Completion of an FTS Notice for Public Sector Authorities

Guidance Note

July 2022

Table of Contents

Table of Contents	2
Introduction	3
Preliminary questions	4
Section I: Contracting Authority	5
I.1, I.2 and I.3: Name and addresses, Joint procurement and Communication	5
I.4 and I.5: Type of the contracting authority and main activity	5
Section II: Object	7
II.1: Scope of the procurement	7
II.2: Description	8
Section III: Legal, economic, financial and technical information	11
III.1: Conditions for participation	11
III.2: Conditions related to the contract	12
Section IV: Procedure	13
IV.1: Description	13
IV.2: Administrative information	14
Section V: Award of Contract	15
V.1 (Information on non-award)	15
V.2 (Award of Contract)	15
Section VI: Complementary information	16
VI.1: Information about recurrence	16
VI.2 Information about electronic workflows	16
VI.3: Additional information	16
VI.4: Procedures for review	16
Annex D1: General procurement	17
VEAT	17
CAN	17
Both notices	17
Appendix 1: General procurement	18

Introduction

Deborah Ramshaw

Partner
Projects & Procurement
Team

T: +44(0)191 279 9112

E: deborah.ramshaw@wbd-uk.com



Laura McIntyre

Solicitor
Projects & Procurement
Team

T: +44(0)191 279 9088

E: laura.mcintyre@wbd-uk.com



The aim of this guidance is to assist contracting authorities when completing a certain notices for the purposes of publication on the Find a Tender Service (which replaced publication on Tenders Electronic Daily (TED) on 31 December 2020). This guidance note focuses on the "common notices" listed below:

- Prior Information Notice (**PIN**) – F01
- Contract Notice (**CN**) – F02
- Contract Award Notice (**CAN**) – F03
- Voluntary Ex Ante Transparency Notice (**VEAT**) – F15
- Modification Notice (**MN**) – F20

The text which follows relates to specific sections of the standard form FTS notice and the guidance note should therefore be read in conjunction with the standard form public notice. The numbering of the sections in this guidance note align to the numbering of the sections of the notices.

This note concentrates on some of the key issues to consider when completing a notice. There are several procurement law issues which are linked to various sections of the notice and more generally to any procurement process. This note does not cover every possible issue that may arise but intends to flag some of the most common issues that contracting authorities need to consider before formally commencing a procurement process and how they are often dealt with.

This guidance also assumes that the notice is for a contract that is covered by the Public Contracts Regulations 2015 (**PCR**) as it exceeds the relevant monetary thresholds and that no specific exemption applies.

The FTS online notices are set up with the following sections for completion:

- Preliminary questions
- Section I: Contracting authority
- Section II: Object
- Section III: Legal, economic, financial and technical information
- Section IV: Procedure
- Section VI: Complementary information
- Summary

Please refer to the table contained within Appendix 1, which outlines the sections included in each notice and therefore which sections of this guidance note are applicable to each notice.

Preliminary questions

The selections made at this stage will influence the sections available for completion for the rest of the notice. This section requires you to select from the following options, as applicable:

1. Contract type

Contract type from the following:

- a) Works;
- b) Supplies; or
- c) Services.

Only one option can be chosen. Where an authority wishes to procure both works and services under the same contract, it will need to identify the main object of the contract. For example, a contract which involves the construction and/or refurbishment of a building over a long period of time tends to be identified as a services contract. The classification of the contract needs to be considered on a case by case basis. Categorisation is clearly critical in terms of the relevant threshold which applies.

For a PIN, you will also be asked to select the notice type from the following three options:

- a) This notice is for prior information only;
- b) This notice aims at reducing time limits for receipt of tenders; or
- c) This notice is a call for competition.

If the last option is selected, there is a note which explains that interested operators must inform the contracting authority of their interest in the contract and that the contract will be awarded without publication of a further call for competition.

2. Procedure type

Procedure type from the following:

- a) Open procedure;
- b) Restricted procedure;
- c) Competitive procedure with negotiation;
- d) Competitive dialogue;
- e) Innovation partnership; or
- f) Award of a contract without prior publication of a call for competition.

Note that for a VEAT notice, the procedure type will be set automatically as "Negotiated procedure without prior publication" unless you select "Award of contract without prior publication of a call for competition" as indicated. No other options will be available.

3. Contracts/concessions/joint procurement

If applicable, this section also asks how many contracts/concessions are awarded and whether this is a joint procurement and, if yes, how many contracting authorities are responsible for the procedure.

Section I: Contracting Authority

I.1, I.2 and I.3: Name and addresses, Joint procurement and Communication

I.1 (Name and addresses)

This section, which deals with details of the contracting authority, is relatively straightforward and will auto-populate based on the details of the user currently logged in to the FTS system, though this can be amended if needed. A contact name at the contracting authority needs to be provided. This contact may or may not be the person who will provide further information/additional documents and who will receive tenders or Selection Questionnaires (SQs).

I.2 (Joint Procurement)

If a consortium of contracting authorities is procuring, either the consortium's name can be inserted, or the lead contracting authority may insert its details. If this is the case, the relevant box should be ticked at section I.2 (Joint Procurement) and this should have been indicated during the Preliminary Questions.

If yes has been ticked at I.2, then it is important that comprehensive and accurate details of all parties who are to benefit from the purchase are provided at VI.3. Information to include here would include information on when requirements are to be met and the financial implications of these requirements. If the contract is to be awarded by a central purchasing body, then this must also be reflected here.

I.3 (Communication)

If the contact name at the contracting authority is not the same as the name of the person who will carry out the essentially administrative functions described above, details of the relevant contact person should be inserted at I.3 (Communication) by selecting that additional information can be obtained from "another address". Additional boxes to insert the relevant details will then appear for completion. It is important that this person will be contactable throughout the procurement period and that they are aware of the actions and timetable applicable to the relevant procurement process being run.

It is a requirement of the procurement rules to provide unrestricted and full direct access free of charge to all of the procurement documents on the internet from the date that the FTS notice is sent for publication. This includes the SQ (if used); Invitation to Tender; specification; and evaluation criteria.

I.4 and I.5: Type of the contracting authority and main activity

I.4 (Type of contracting authority)

The type of contracting authority needs to be indicated in this section, together with the sector or sectors in which the contracting authority carries out its activities. For example, in the case of an NHS Trust, the box relating to "body governed by public law" is usually ticked, along with the main activity of "Health".

I.5 (Main Activity)

The type of activity that relates to the contracting authority will need to be selected.

The options are as follows:

- General public services
- Defence
- Public order and safety
- Environment
- Economic and financial affairs
- Health
- Housing and community amenities
- Social protection
- Recreation, culture and religion
- Education
- Other Activity

Where "Other Activity" is selected a description of this must be given in the corresponding box provided.

Section II: Object

II.1: Scope of the procurement

II.1.1 (Title)

In this section, insert the title attributed to the contract. It is important to be accurate in attributing a title to the contract, as this is likely to form a reference point on the FTS website; any inaccuracy may be construed as a restriction on competition and lacking transparency.

II.1.2 (Main CPV Code)

In this section contracting authorities need to select the appropriate Common Procurement Vocabulary (CPV) codes from the available list; specific CPV codes can be found by clicking on the "+" at the right of each high level CPV code. The purpose of these codes is to establish a single classification system for public procurement aimed at standardising the references used by contracting authorities to describe the subject of procurement contracts. This enables providers to identify contracts that are of interest to them and which they have the capacity to carry out.

Contracting authorities need to select a main CPV code which most closely reflects the main object of the contract. There is an option to add supplementary CPV codes underneath. Contracting authorities can also include extra CPV codes which reflect the contract's additional objects at II.2.2. For example, in the case of a supply contract, the authority may choose the CPV code for the main product as the main object of the contract as well as additional codes to cover the ancillary supplies under the contract. These codes are often identified by reference to the specification for the contract in question.

II.1.3 (Type of Contract)

The type of contract will be auto completed from the Preliminary Questions (i.e. whether it is a works, services or supplies contract). This cannot be amended here.

II.1.4 (Short Description)

In this section contracting authorities will need to insert a brief description of the scope of the contract. This is limited to 4,000 characters; if additional characters are required more detail can be inserted at II.2.4 where 10,000 characters are available, or II.2.14 where 6,000 characters are available.

This is a critical section of the notice and needs to be carefully drafted to ensure that it is flexible enough to accommodate the authority's requirements. We often advise against being overly detailed or prescriptive in the description of the contract in the FTS notice itself. Contracting authorities may find at a later stage that they want to include something in the current procurement which they hadn't envisaged at the outset and may be prevented from doing this because they have been too specific in describing the contract in the notice, such that it isn't broad enough to cover any such requirements. However, there is a fine line between being too specific and too generic so that the contract information is meaningless.

II.1.5 (Estimated Total Value)

In this section contracting authorities will need to set out the estimated total value of the contract. Contracting authorities should include the potential value of all lots and options in this calculation where applicable. This helps give an indication to the market as to whether it is the sort of

contract that an organisation would be interested in, based on scope and/or value.

This is a key section of the FTS notice. In terms of the value of the contract, we would advise that you build in some flexibility here and consider setting out the value by means of a range or an estimated value. Additional information (for example, in the case of a range of values) could be added to section VI.3.

Inserting the correct and appropriate value is important because, if the value of the contract to be awarded ends up being materially different from the value set out in the FTS notice, this may be considered a material change in the scope of the contract. This could technically mean that the procurement should be stopped and re-started with a new FTS notice. Failing to provide a precise valuation of the contract and a clear indication of its scope could leave an authority open to challenge later on in the process, with the inevitable associated delays and cost.

II.1.6 (Information about lots)

In this section contracting authorities will need to indicate whether the contract is being divided into lots. For example, in a contract for professional services for building works, authorities may have individual lots for project management services, architectural services, quantity surveying services, etc. Consideration should be given as to how bids will be evaluated from suppliers for more than one lot (with an associated discount), against bids from suppliers who only want to provide the requirements of one lot.

II.1.7 (Total value of the procurement (exc. VAT))

The option is given to provide either an exact value or a lowest or highest offer that will be taken into consideration, Depending on the option selected, a drop down section will appear. This should be populated with either the exact value and currency or the lowest/highest offer taken into consideration and currency. A precise valuation should be provided otherwise this could leave contracting authorities vulnerable to a challenge later down the line. It is advisable to maintain a degree of flexibility by not prescribing an upper limit.

II.2: Description

II.2.1 (Lot title)

This section will only appear if 'yes' has been selected at II.1.6. (i.e. if the contract is divided into lots). This section will be repeated once per lot and must be completed in respect of each lot. Each lot will be automatically numbered and the estimated value of each lot should be inserted at II.2.6.

II.2.2 (Additional CPV Code(s))

As noted at section II.1.2 above, contracting authorities can include extra CPV codes which reflect the contract's additional objects here. Where the contract is divided into lots, this can be completed on a per lot basis.

II.2.3 (Type of Contract)

The relevant NUTS code where the works are to be carried out, the supplies are to be delivered or the services are to be performed should be selected from the available list at II.2.3. Where the contract is divided into lots, this can be completed on a per lot basis. This is automatically entered by the site depending on what type of contract had been selected in the preliminary questions

II.2.4 (Description of the procurement)

As noted at II.1.4 above, this section allows contracting authorities to include additional details, unable to be inserted in the brief description. The description of the procurement across both of these sections is critical and needs to be carefully drafted to ensure that it is flexible enough to accommodate the authority's requirements.

We often advise against being overly detailed or prescriptive in the description of the contract in the FTS notice itself. Contracting authorities may find at a later stage that they want to include something in the current procurement which they hadn't envisaged at the outset and may be prevented from doing this because they have been too specific in describing the contract in the notice, such that it isn't broad enough to cover any such requirements. However, there is a fine line between being too specific and too generic so that the contract information is meaningless. Where the contract is divided into lots, this section can be completed on a per lot basis.

II.2.5 (Award Criteria)

In this section the award criteria must be selected. Under the PCR, a contract must be awarded to the most economically advantageous offer. Any criteria and sub-criteria used to assess the economic advantageousness of different bids should be listed in this section, unless they are included in the tender documents, in which case the box stating that "*price is not the only award criterion and all criteria are stated only in the procurement documents*" can be selected.

For example, such criteria can include:

- quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;
- organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract; or
- after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.

The contracting authority must also specify in the procurement documents the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender, except where this is identified on the basis of price alone. The weighting(s) may be expressed as a range. Where weighting isn't possible, the contracting authority must indicate the criteria in decreasing order of importance.

II.2.6 (Estimated Value)

This section will appear whether the contract is divided into lots, or not. For a contract that is not divided into lots, the same figure as inserted at section II.1.5 should be included here. For contracts divided into lots, this value should be inserted as the estimated value of the relevant lot.

II.2.7 (Duration of the Contract)

In this section contracting authorities can either state the length of the contract in months or days, or specify the start and completion dates of the contract. Details of any renewals should also be entered, if applicable.

Contracting authorities should consider providing some flexibility with regards to the duration of the contract, to give them the right to extend if required (and ensure relevant contract provisions for the same).

II.2.9 (Information about the limits on the number of candidates to be invited)

In this section, excluding open procedures, the contracting authority should indicate the limits on candidates to be invited. In the restricted procedure, the minimum number of candidates is 5. In competitive procedure with negotiation, the minimum is 3. See Regulation 65 PCR for details.

II.2.10 (Information about variants)

In this section, contracting authorities should indicate whether or not they are prepared to accept variants on the requirements they have specified in the specification and contract documents. Note that authorities can only accept variants if awarding the contract on the basis of most economically advantageous tender. If an authority does not indicate that variants will be accepted, it cannot accept an offer which contains a variant. Any minimum requirements for variant bids must also be set out in the tender documents.

II.2.11 (Information about options)

Contracting authorities should confirm whether or not the term of the contract can be extended at the discretion of the contracting authority here. If yes, information should be provided as to the scope of any such options.

II.2.12 (Information about electronic catalogues)

If tenders must be presented in the form of an electronic catalogue or include an electronic catalogue, the box here should be ticked.

II.2.13 (Information about European Union funds)

If the procurement or related project is financed by European Union funds then this should be indicated here.

II.2.14 (Additional Information)

In this section contracting authorities should indicate any additional information that has not been provided elsewhere.

II.3 (Estimated date of contract notice)

This section should be completed with an estimated date of publication of contract notice in a date/month/year format. There is the option to utilise the calendar icon to select the date.

Section III: Legal, economic, financial and technical information

III.1: Conditions for participation

III.1.1 (Suitability to pursue the professional activity)

In this section we would normally suggest inserting the following text:

"In accordance with Regulations 57, 58 and 60 of the Public Contracts Regulations 2015, applicants will be assessed in accordance with the Public Contract Regulations 2015, on the basis of information provided in response to the Selection Questionnaire."

Some contracting authorities do set out any such requirements in the notice itself if they do not intend to use a selection questionnaire document.

III.1.2 (Economic and financial standing)

In this section there is an option to select a box indicating "*selection criteria as stated in the procurement documents*". There are also two optional boxes provided: (1) list and brief description of conditions; and (2) minimum level(s) of standards possibly required. If contracting authorities wish to complete these optional boxes, they may wish to consider inserting the following text in respect of box (1):

"Applicants will be assessed in accordance with Regulations 58 and 60 of the Public Contracts Regulations 2015."

If contracting authorities wish to require contractors to satisfy minimum levels of economic and financial capacity (for example, a minimum turnover), the PCR state that authorities must specify this in the face of the notice or, as a minimum, cross refer to the relevant parts of the procurement documents.

Therefore, contracting authorities may wish to insert details of the minimum standards, or add the following text into box (2):

"The Authority expressly reserves the right to require a candidate to provide additional information supplementing or clarifying any of the information provided in response to the requests set out in the Selection Questionnaire."

III.1.3 (Technical and professional ability)

In this section there is an option to select a box indicating "*selection criteria as stated in the procurement documents*". There are also two optional boxes provided: (1) list and brief description of selection criteria; and (2) minimum level(s) of standards possibly required. If contracting authorities wish to complete these optional boxes, we would normally suggest insertion of the following text for box (1):

"Applicants will be assessed in accordance with Regulations 58 and 60 of the Public Contracts Regulations 2015. Applicants should refer to further detailed information in the supplementary supporting documents, Selection Questionnaire or tender documentation."

See our comments above relating to setting minimum requirements which apply also to technical capacity.

III.1.5 (Information about reserved contracts)

In this section authorities should indicate whether they wish to reserve the right to participate in a contract award procedure to contractors which operate supported factories, supported businesses or supported employment programmes.

III.2: Conditions related to the contract

III.2.1 (Information about particular profession)

For certain services contracts, execution of the service may be reserved by law to a particular profession. If this is the case, authorities will need to tick the box at III.2.1.

III.2.2 (Contract performance conditions)

In this section there is an opportunity to set out particular contract conditions relating to the performance of the contract which authorities may wish to impose. For example, authorities may wish to impose particular social or environmental contract conditions, in which case, the following text could be added:

"Contract performance conditions may relate in particular to social and environmental considerations."

If this is not a requirement then the box can be left blank. Advice should be taken on the use of such conditions both in the contract itself and if contracting authorities wish to take such issues into account as part of any evaluation process.

III.2.3 (Information about staff responsible for performance)

If authorities require providers to give details of the personnel who will be responsible for the execution of the service, they will need to indicate this at III.2.3 by ticking the box.

Section IV: Procedure

IV.1: Description

IV.1.1 (Procedure type)

In this section contracting authorities must indicate the type of award procedure they are intending to follow. This will be pre-filled based on the answer provided in the Preliminary Questions. If the open, restricted or competitive procedure with negotiation procedure has been selected, there will be an option to tick a box to indicate that the procedure will be accelerated. The PCR set out the detail of how the different procedures must be carried out.

For most standard procurements, the open or restricted procedure will be used.

For more complex projects, contracting authorities tend to choose either the competitive dialogue procedure or the competitive negotiated procedure. Note, however, that these procedures are only available in defined circumstances which are set out in the PCR and an authority needs to demonstrate the grounds for their use.

IV.1.3 (Information about a framework agreement)

If the procurement involves the establishment of a framework agreement, this should be indicated by ticking the box at IV.1.3. Additional questions will then appear in respect of the number of operators and any justification if the framework duration is to exceed 4 years. These should be completed accordingly.

If 'yes' has been ticked at I.2, indicating that the contract involves joint procurement, then it is important to include comprehensive and accurate details of all parties who are to benefit from the purchase here.

IV.1.4 (Information about reduction to number of tenders)

If the selected procedure is the competitive dialogue procedure or the negotiated procedure, then IV.1.4 will appear. This box should be ticked where authorities intend to reduce the number of providers by having successive stages during which they apply the award criteria to reduce the number of providers.

Please note that this is different to the pre-qualification, selection or "short-listing" stage which occurs earlier on in the procurement process when using the restricted, negotiated and competitive dialogue procedures. Those stages are used to reduce the number of participants who are being invited to continue in the process based upon an evaluation of their responses to the initial FTS notice and Selection Questionnaire.

IV.1.5 (Information about negotiation)

This section will appear if the process is competitive procedure with negotiation. This is optional but the contracting authority can tick yes to the box stating that it reserves the right to award the contract on the basis of initial tenders without conducting negotiations, if applicable.

IV.1.6 (Information about electronic auction)

If an electronic auction is to be used, this should be indicated at IV.1.6 and information provided.

IV.1.8 (Information about GPA)

In this section it should be indicated whether the procurement is covered by the Government Procurement Agreement (GPA). This is a trade treaty that the UK is an independent member of, as of 1 January 2021. The UK coverage schedules have been published and updated and set out the entities to which the GPA applies. The UK coverage schedules largely replicate the PCR (including amendments to reflect mergers and transfers of function and the addition of NHS Foundation Trusts) and, in the majority of cases, authorities will need to tick this box. There are exceptions for some goods and services and so it is important to review the UK coverage schedules.

IV.2: Administrative information

This is a relatively straightforward section which can be used to provide information on whether, for example, a PIN for the same contract has been published, the language in which Selection Questionnaire responses and tenders must be submitted and any applicable time limits.

The key part of this section is **IV.2.2** which sets out the time limit for receipt of tenders (in the case of the open procedure) or requests to participate (in the case of the restricted, negotiated and competitive dialogue procedures). It should be noted that the PCR set minimum time limits for tender receipt and requests to participate for each award procedure. So, for example, in the case of the competitive dialogue procedure, the normal time period for requests to participate is 30 days from despatch of the FTS notice. Contracting authorities will need to ensure that they comply with the relevant time periods set out in the PCR.

IV.2.5 (Scheduled start date)

This option is only available for PINs where there is a call for competition. This should be filled in a date/month/year format and the calendar icon is provided to assist with entering the relevant date.

IV.2.8 (Information about termination of dynamic purchasing system)

This option will only appear where the option to confirm if "A dynamic purchasing system was set up" in section IV.1.3. is selected. The contracting authority should then tick to confirm where the notice involves the termination of the dynamic purchasing system published by the contract notice.

IV.2.9 (Information about termination of call for competition in the form of a prior information notice)

In a contract award notice, this is a check box to confirm if or if not the contract authority will award any further contracts based on the Prior Information Notice.

Section V: Award of Contract

V.1 (Information on non-award)

In a VEAT notice the contracting authority can add the Contract No, Lot Number and Title in the first section.

V.2 (Award of Contract)

V.2.1 (Date of conclusion of the contract)

This is to be filled in using a date/month/year format and can be populated using the calendar icon.

V.2.2 (Information about tenders)

When filling this section out for the purposes of a VEAT notice there is a yes or no option to be selected in response to the following "The contract/concession will be awarded.

V.2.3 (Name and address of the contractor)

This option will appear where a contract has been awarded to a group of economic operators. This section should then be filled with the official name, address and postcode for each of the contractors that the contract has been awarded to. There is then an option for selecting the relevant NUTS code which should reflect the relevant location for that contractor. The relevant email address, telephone, fax and website for that specific contractor should then be added. The contracting authority should then specify whether or not the contractor is an SME by selecting either yes or no.

V.2.4 (Information on value of the contract/lot)

For a VEAT notice this section is to be populated with an initial estimated total value of the contract/lot/concession and the relevant currency should be selected.

Then a total value of the contract/lot/concession is to be provided. Where you are dealing with a framework agreement, the total maximum value for that particular lot should be entered. However, for call off contracts from framework agreements, the value of the contract for this particular lot (which has not been included in previous contract award notices) should be entered.

Where the option for the exact value is selected, the total value should be provided along with the currency.

Where the option for the lowest/highest offer taken into consideration is selected, the lowest offer should be entered and likewise with the highest offer.

V.2.5 (Information about subcontracting)

For a VEAT notice, this box should be either checked if the contract/lot/concession is likely to be subcontracted or left unchecked if it not likely to be. Where the box is checked, there will be a drop down asking for the value to be entered of the value likely to be subcontracted to third parties.

Section VI: Complementary information

VI.1: Information about recurrence

Contracting authorities should indicate whether or not the procurement is recurrent by selecting the appropriate answer here.

VI.2 Information about electronic workflows

Contracting authorities have the opportunity to indicate whether electronic ordering, invoicing or payment will be used.

VI.3: Additional information

This section can be used to provide additional information such as any information memorandum (or descriptive document in the case of the competitive dialogue procedure), the form that requests to participate must take, and whether, in the case of a major project, an open day is to be held. Where one contracting authority is purchasing on behalf of other contracting authorities, the details of the other contracting authorities should also be set out here.

Contracting authorities may also wish to add:

"The contracting authority does not bind itself to accept any tender and is not liable for any costs incurred by those expressing an interest or tendering for this opportunity."

VI.4: Procedures for review

VI.4.1 (Review body)

FTS will not allow you to continue without the insertion of information in section VI.4.1. Details of the High Court should be entered here including address and contact details.

VI.4.3 (Service from which information about review may be obtained)

In this section, contracting authorities, whilst not required, may choose to use the following text:

"The contracting authority will operate a minimum 10 calendar day standstill period at the point information on the award of the contract is communicated to tenderers to provide time for unsuccessful tenderers to challenge the award decision before the contract is entered into. Unsuccessful tenderers shall be notified by the contracting authority as soon as possible after the decision is made as to the reasons why they were unsuccessful. The Public Contracts Regulations 2015 provide that aggrieved parties who have been harmed, or are at risk of harm, by breach of the rules are to take action in the High Court (England, Wales and Northern Ireland)."

Annex D1: General procurement

This Annex is available for completion where a contract is awarded without a prior call for competition. For a CAN, the procedure option of "Award of a contract without prior publication of a call for competition" must be selected for this to appear as a section for completion on FTS. Annex D1 will appear automatically for a VEAT notice.

VEAT

The options available for completion in Annex D1 will vary depending on the completion of the Preliminary Questions for a VEAT notice:

1. If the procedure type remains as the auto-populated "negotiated procedure without prior publication" then a number of options will appear in Annex D1 to justify the choice of the negotiated procedure without prior publication of a call for competition. The authority can select one or more of the justifications that appear. Depending on which justification(s) are selected, further options may also appear.
2. If, however, the authority selects that the procedure type is "award of contract without prior publication of a call for competition", then, in Annex D1, the authority must select that "the procurement falls outside of the scope of application of the regulation".

CAN

Where Annex D1 is completed as part of a CAN, two options will be available for selection to justify the award:

1. *"Justification for the choice of the negotiated procedure without prior publication of a call for competition"*

If this option is selected then a number of options will appear in Annex D1 to justify the choice of the negotiated procedure without prior publication of a call for competition. The authority can select one or more justifications and, depending on which justification(s) are selected, further options may also appear. For example, if the authority selects "the works, supplies or services can be only be provided by a particular economic operator for the following reason", the authority will have further options such as "absence of competition for technical reasons".

2. *"Other justification for the award of the contract without prior publication of a call for competition in the OJEU or FTS service"*

If this option is selected then the authority must select that "the procurement falls outside of the scope of application of the regulation".

Both notices

An explanation box will appear in Annex D1 for both notices, regardless of what options have been previously selected. This gives the authority the opportunity to explain, in 4000 characters, why the award has been made without prior publication of a call for competition.

Appendix 1: General procurement

The following table sets out which sections feature as part of each notice type in order to aid with the use of this Guidance Note.

SECTION	SUB-SECTION	SUB-SUB-SECTION	HEADING	PIN?	CN?	CAN?	VEAT?	MN?
I			Contracting authority	✓	✓	✓	✓	✓
	I.1		Name and address	✓	✓	✓	✓	✓
	I.2		Joint procurement	✓	✓	✓		
	I.3		Communication	✓	✓			
	I.4		Type of the contracting authority	✓	✓	✓	✓	
	I.5		Main activity	✓	✓	✓	✓	
II			Object	✓	✓	✓	✓	✓
	II.1		Scope of the procurement	✓	✓	✓	✓	✓
		II.1.1	Title	✓	✓	✓	✓	✓
		II.1.2	Main CPV code	✓	✓	✓	✓	✓
		II.1.3	Type of contract	✓	✓	✓	✓	✓
		II.1.4	Short description	✓	✓	✓	✓	
		II.1.5	Estimated total value	✓	✓			
		II.1.6	Information about lots	✓	✓	✓	✓	
		II.1.7	Total value of the procurement (exc. VAT)			✓	✓	
	II.2		Description	✓	✓	✓	✓	✓
		II.2.1	Title	✓	✓	✓	✓	✓
		II.2.2	Additional CPV codes	✓	✓	✓	✓	✓
		II.2.3	Place of performance	✓	✓	✓	✓	✓
		II.2.4	Description of the procurement	✓	✓	✓	✓	✓
		II.2.5	Award criteria	✓	✓	✓	✓	
		II.2.6	Estimated value	✓	✓			

SECTION	SUB-SECTION	SUB-SUB-SECTION	HEADING	PIN?	CN?	CAN?	VEAT?	MN?
		II.2.7	Duration of the contract, framework agreement or dynamic purchasing system	✓	✓			✓
		II.2.8						
		II.2.9	Information about the limits on the number of candidates to be invited		✓			
		II.2.10	Information about variants	✓	✓			
		II.2.11	Information about options	✓	✓	✓	✓	
		II.2.12	Information about electronic catalogues		✓			
		II.2.13	Information about European Union funds	✓	✓	✓	✓	✓
		II.2.14	Additional information	✓	✓	✓	✓	
	II.3		Estimated date of publication of contract notice	✓				
III			Legal, economic, financial and technical information	✓	✓			
	III.1		Conditions for participation	✓	✓			
		III.1.1	Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers	✓	✓			
		III.1.2	Economic and financial standing	✓	✓			
		III.1.3	Technical and professional ability	✓	✓			
		III.1.4						
		III.1.5	Information about reserved contracts	✓	✓			
	III.2		Conditions related to the contract	✓	✓			
		III.2.1	Information about a particular profession	✓	✓			
		III.2.2	Contract performance conditions	✓	✓			
		III.2.3	Information about staff responsible for the performance of the contract	✓	✓			
IV			Procedure	✓	✓	✓	✓	✓
	IV.1		Description	✓	✓	✓	✓	

SECTION	SUB-SECTION	SUB-SUB-SECTION	HEADING	PIN?	CN?	CAN?	VEAT?	MN?
		IV.1.1	Type of procedure	✓	✓	✓	✓	
		IV.1.2						
		IV.1.3	Information about a framework agreement or a dynamic purchasing system	✓	✓	✓	✓	
		IV.1.4	Information about reduction of the number of solutions or tenders during negotiation or dialogue		✓			
		IV.1.5	Information about negotiation		✓			
		IV.1.6	Information about electronic auction	✓	✓	✓		
		IV.1.7						
		IV.1.8	Information about the Government Procurement Agreement (GPA)	✓	✓	✓	✓	
	IV.2		Administrative information	✓	✓	✓	✓	✓
		IV.2.1	Previous publication concerning this procedure		✓	✓	✓	✓
		IV.2.2	Time limit for receipt of expressions of interest	✓	✓			
		IV.2.3	Estimated date of dispatch of invitations to tender or to participate to selected candidates		✓			
		IV.2.4	Languages in which tenders or requests to participate may be submitted	✓	✓			
		IV.2.5	Scheduled start date for start of award procedures	✓				
		IV.2.6	Minimum time frame during which the tenderer must maintain the tender		✓			
		IV.2.7	Conditions for opening of tenders		✓			
		IV.2.8	Information about termination of dynamic purchasing system			✓		
		IV.2.9	Information about termination of call for competition in the form of a prior information notice			✓		
V			Award of contract			✓	✓	✓
	V.1		Information on non-award			✓		

SECTION	SUB-SECTION	SUB-SUB-SECTION	HEADING	PIN?	CN?	CAN?	VEAT?	MN?
	V.2		Award of contract			✓	✓	✓
		V.2.1	Date of conclusion of the contract			✓	✓	✓
		V.2.2	Information about tenders			✓	✓	✓
		V.2.3	Name and address of the contractor			✓	✓	✓
		V.2.4	Information on value of the contract/lot			✓	✓	✓
		V.2.5	Information about subcontracting			✓	✓	
VI			Complementary information	✓	✓	✓	✓	✓
	VI.1		Information about recurrence		✓			
	VI.2		Information about electronic workflows	✓	✓			
	VI.3		Additional information	✓	✓	✓	✓	✓
	VI.4		Procedures for review	✓	✓	✓	✓	✓
		VI.4.1	Review body	✓	✓	✓	✓	✓
		VI.4.2	Body responsible for mediation procedures	✓	✓	✓	✓	✓
		VI.4.3	Review procedure	✓	✓	✓	✓	✓
		VI.4.4	Service from which information about the review procedure may be obtained	✓	✓	✓	✓	✓
	VI.5		Date of dispatch of this notice	✓	✓	✓	✓	✓
			Annex D1 – Justification for the award of the contract without prior publication of a call for competition			✓	✓	

Deborah Ramshaw

Partner
Projects & Procurement
Team

T: +44(0)191 279 9112
E: deborah.ramshaw
@wbd-uk.com



Andrew Hirst

Partner
Projects & Procurement
Team

T: +44(0)113 290 4338
E: Andrew.hirst
@wbd-uk.com



Neil Walker

Legal Director
Projects & Procurement
Team

T: +44(0)191 279 9364
E: neil.walker
@wbd-uk.com



Emma Luscombe

Associate
Projects & Procurement
Team

T: +44(0)191 230 8309
E: emma.luscombe
@wbd-uk.com



Laura McIntyre

Solicitor
Projects & Procurement
Team

T: +44(0)191 279 9088
E: laura.mcintyre
@wbd-uk.com



Sahana Grimaldi

Solicitor Apprentice
Projects & Procurement
Team

T: +44(0)191 279 9175
E: sahana.grimaldi
@wbd-uk.com



womblebonddickinson.com

© Copyright 2021 Womble Bond Dickinson (UK) LLP. All rights reserved. This document is provided for general information only and does not constitute, legal, financial or other professional advice so should not be relied on for those purposes. You should consult a suitably qualified lawyer or other relevant professional on a specific problem or matter. Womble Bond Dickinson (UK) LLP is authorised and regulated by the Solicitors Regulation Authority. "Womble Bond Dickinson", the "law firm" or the "firm" refers to the network of member firms of Womble Bond Dickinson (International) Limited consisting of Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (US) LLP. Each of Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (US) LLP is a separate legal entity operating as an independent law firm. Womble Bond Dickinson (International) Limited does not practise law. Please see www.womblebonddickinson.com/legal-notices for further details.

This document is supplied to you in confidence and contains confidential information which if disclosed could result in a breach of confidence actionable by the firm or our clients and which would or would be likely to prejudice our commercial interests. As some of the information within the document is personal information about our staff and clients, disclosure of this without their consent could result in a breach by you of the Data Protection Act 2018. If you believe that you are under a legal obligation to disclose any of the contents of this document to a third party, we would ask that you let us know, ideally by contacting the Key Contact named in the document or in their absence, Andy Kimble in our Information Governance Team.