

Scottish Procurement

Open Contracting Strategy

September 2017



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Riaghaltas na h-Alba
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Contents

Introduction	3
Existing obligations.....	4
What actions have we already taken?	5
Why should we publish more information?	6
Engagement.....	7
Approach.....	7
Annex 1 – Workstreams	9
Annex 2 – Data principles	11
Annex 3 – Open contracting in other countries	12

Introduction

The Scottish Government recognises and values the importance of the open government principles of openness, transparency and citizen participation, and has been an active participant in the open government community. As a result, Scotland has been chosen to be part of the Open Government Partnership pioneer programme. The commitments published in our resulting action plan will help us to meet the First Minister's aim to be the "the most open and accessible government that Scotland has had".¹

A key component of Open Government is greater transparency around public spending to ensure that the people of Scotland have a better understanding about how government works. As part of our action plan, we committed to developing an Open Contracting Strategy and publishing procurement information in accordance with international standards. This strategy will result in procurement information being proactively provided in a coherent, consistent form that is easy to understand for communities, the third sector and citizens.

Open Contracting is defined by the Open Contracting Partnership as:

*"publishing and using open, accessible and timely information on government contracting to engage citizens and businesses in identifying and fixing problems"*²

We have an established track record for making procurement information available through the Public Contracts Scotland website. Making more information available in a way that allows it to be easily re-used and shared is a new way of approaching the publication of information and will require us to take further action. A recent survey by the Scottish Information Commissioner shows that 84% of people agreed that public bodies should publish information on their contracts³.

In recognising the importance of open and accessible information we published our Open Data Strategy in 2015. This set out our ambition for making data open and available for others to use and reuse and affirmed the adoption of the G8 Open Data Principles: Open Data by Default; Quality and Quantity; Useable by All; Releasing Data for Improved Governance and Releasing Data for Innovation.

This strategy, once implemented, will enable us to publish regular information in relation to our procurement exercises, ensuring greater transparency on how the Scottish Government spends public money. By 2019, we will publish more information in an open format in one central place. This will include the invitation to tender documents and other relevant contract documentation.

¹ <http://news.gov.scot/news/programme-for-government>

² <http://www.open-contracting.org/why-open-contracting/>

³ <http://www.itspubliknowledge.info/home/SICReports/OtherReports/PublicAwarenessResearch2017.aspx>

Whilst this Open Contracting Strategy is for Scottish Procurement, other public bodies may also find it useful when developing their own strategies for making procurement and contract information more open and transparent.

Existing obligations

Open Government Partnership Scottish National Action Plan 2016-17

As part of our Financial Transparency commitments, we will:

Develop an open contracting strategy to support the publication of procurement and commercial reporting information in a manner that is accessible to all, while taking advantage of developing data standards.

Legislation

There are also a number of pieces of legislation which require the Scottish Government to publish information:

- [EU INSPIRE Directive](#)
- [EU Directive on the re-use of Public Sector Information \(PSI Directive\)](#)
- [Freedom of Information \(Scotland\) Act 2002](#)
- [The Environmental Information \(Scotland\) Regulations 2004](#)
- [General Data Protection Regulation \(GDPR\)](#)

Recent procurement legislation has also increased the obligations on all public bodies to publish procurement information. This includes the requirements contained within:

- [The Procurement Reform \(Scotland\) Act 2014](#)
- [The Public Contracts \(Scotland\) Regulations 2015](#)

Code of Practice and Strategy

The [Scottish Ministers' Code of Practice](#) recommends that, as a matter of best practice, we should publish information related to the transparency of public funds and demonstrable diligence in managing contractors to ensure best value for money. This includes how much money is being spent and with whom, any cost benefit analysis that has been undertaken and suitable checks and balances are in place to ensure proper monitoring of project performance.

The Scottish Government [Open Data Strategy](#) recommends that we publish all data in a format of 3* or above (of the universally recognised [5* open data schema](#) proposed by Sir Tim Berners-Lee) by 2017.

What actions have we already taken?

We already publish procurement information in various formats. Whilst these publications meet our obligations relating to procurement policy and legislation, implementation of this strategy will enable us to also comply with the principles of open contracting and the Open Data Strategy.

Current publications

Data	Location	Format
Contract Notices, Contract Award Notices, PIN Notices	Public Contracts Scotland	HTML / PDF / XML
Contract Register	Public Contracts Scotland	HTML / MS Excel / CSV
Tender Documents	Public Contracts Scotland	PDF / MS Office
Annual Procurement Strategy	Scottish Government website	PDF
Scottish Government Monthly Spend over £25k	Scottish Government website	PDF / CSV
Electronic Purchasing Card (ePC) expenditure	Scottish Government website	PDF / CSV

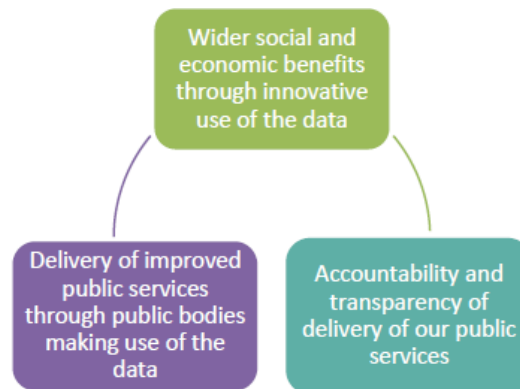
In recognition of the need to make our information available in a more open, re-useable format we have recently made a number of changes to the [Public Contracts Scotland](#) website. These were:

- Adding the [Open Government License](#) to the material we publish on the site. This explicitly encourages and permits anyone to use the information.
- Making the contract notices and award notices we publish available in a downloadable, open data format. By providing the notices and descriptions in these format we have aligned the downloads with the web page and provided more useful, structured information.
- Making the invitation to tender documents published via the PCS mailbox permanently available, even after the closing date for expressions of interest has passed.

These recent developments mean that we meet the criteria for level 3 of the 5 Star schema specified in the [Open Data Strategy](#).

Why should we publish more information?

The key drivers for making our procurement information more open are:



Improved public services

Making public sector procurement information open and accessible enables the public to understand more about the goods and services that we purchase, gain insight into the procurement process and where appropriate contribute to future design and delivery of contracts. Making the information more accessible can also help those delivering public services make better use of the information themselves. This in turn will improve value for money to the taxpayer and potentially lead to more efficiencies in public procurement.

Innovation and collaboration

Publishing our information in a reusable form empowers others to use the information for innovative purposes. Open information on contracts can provide powerful analytics to shape more informed decisions and help choose the best solution for a given requirement. Businesses can better access and track contract opportunities including details about what, where and when opportunities arise, and how decisions to award contracts will be made. Information on all contracts also lowers the barriers to entry for smaller businesses.

Where comparable information and the availability of unit prices are made available this could be particularly important in the preparation of bids. Analysis of trends, prices and supplier performance can be invaluable in developing a sustainable business. By further empowering the private sector and citizens to engage meaningfully in the contracting process will result in higher quality goods, services and infrastructure.

Transparency

Government contracts play a vital role in the economic development of Scotland and in the lives of its citizens by delivering essential goods, works, and services. Open contracting information makes governments more accountable and builds trust in public services. An open tendering process and open information along all stages of the procurement process are vital to enable a more open and competitive supply market which will in turn discourage corruption and fraud. A recent survey by the

Scottish Information Commissioner has shown that the 77% of the public are “more likely to trust an authority that publishes a lot of information about its work”.⁴

Engagement

A key component of open contracting is to increase the engagement of business and civil society in the contracting process. Increased transparency of contracting information will enable civil society to monitor and provide feedback on public contracts. Civil society can play a significant role in encouraging accountability in government procurement, and can contribute an independent and impartial voice to the procurement process. For example enabling service users, to review the evaluation criteria and contract awards validates the procurement and heightens public awareness and trust in the process.

Approach

The [Open Contracting Data Standard](#) (OCDS) (figure 1) is an internationally recognised standard that has been developed by The Open Contracting Partnership. There are two main components: the type of information we publish and the format (aligned with the 5* open data schema).

Adoption of the standard enables users around the world to publish information in machine readable formats, which facilitates its re-use and linking with other data, and the creation of tools to further analyse or share the information.

Planning the release of information in line with the Open Contracting Data Standard will help Scottish Procurement to measure its progress against a recognised standard, and to structure and prioritise the release of procurement and contract information.

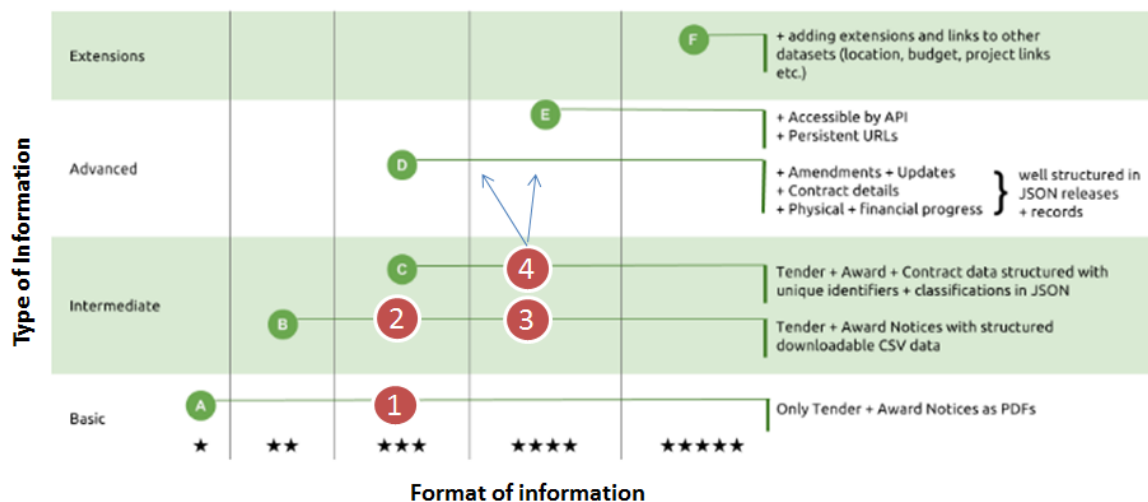


Figure 1 Open Contracting Data Standard

⁴<http://www.itspubliknowledge.info/home/SICReports/OtherReports/PublicAwarenessResearch2017.aspx>

Our current publications place us at point 1 in the diagram as we publish a basic level of procurement information (contract notices, tender documents) in a 3* format (XML, CSV). As illustrated in the diagram above, this strategy recommends that we breakdown implementation into four phases to gradually increase the type and format of information we publish. We aim to reach point 4 by the end of 2019, this will mean publishing additional information in a 4* format.

When publishing this information we will adhere to the principles of FOISA and the Data Protection Act, recognising the need to protect commercial confidentiality and personal information.

It is recognised that the publication of more information may have an impact on resources. It is therefore recommended that an implementation team is established to take forward the recommendations in Annex 1 as well as provide a source of support to Scottish Procurement staff.

We will mitigate the resource impact by:

- Carrying out a prioritisation exercise to identify the timeline of publication focusing on information that is publication ready or will require minimal buyer intervention. This will complement the phased approach to implementation and allow information to be published in a structured way.
- Building open contracting principles into our existing systems, policies and processes. This will allow minimal disruption and may even identify areas for future efficiencies. Further supporting information is available in Annex 2.
- Reviewing the current systems to enable the release of information in an open format where possible.
- Regular communications and engagement including
- Creating and issuing supporting guidance

By phasing the release of information, the implementation of this strategy will be less onerous and will help with managing any revised processes to become embedded within Scottish Procurement.

Annex 1 – Workstreams

Policies and processes

To facilitate the publication of more procurement information in line with OCDS, the following changes will be made to existing policies and processes that will allow us to more efficiently publish additional information to achieve greater transparency:

- A standard transparency clause will be added to all contracts to make our intentions regarding the publication of information clear to suppliers.
- As not all spend is associated with a contract, standard wording will also be included as default within Scottish Government purchase orders to ensure that all suppliers are aware that we may publish their information.
- Supporting guidance may be produced.
- Procurement information should be reviewed to identify areas which can be proactively published to help us reach the OCDS intermediate level of information published. For example, publication of contract documents. Research and consultation with buyers has demonstrated that the time taken to redact contract information ranges from 30 minutes for simple contracts up to a couple of days for the most complex.
- The formats of existing publications should be, where applicable, updated to reflect open data formats

eCommerce Shared Service

We will review Scottish Government eCommerce systems in order to proactively publish more procurement information and implement open data standards. This will ensure that the systems facilitate the publication of more information and enable it to be published in an open format in line with OCDS.

The key components of this are:

- The [Open Government License](#) will be applied to information published by Scottish Government via our eCommerce Systems
- Open data standards will be built into applicable systems including open APIs, allowing us to reach the 4 star level on the OCDS.
- Existing reporting functionality within systems will be reviewed and, where possible, will be made publically available in line with relevant legislation and privacy policies.
- Information we publish will be freely available without the need to register to access it.
- The requirement to comply with and enable open data standards will be built into all future procurement exercises for eCommerce systems going forward.
- The terms and conditions and privacy notices of all eCommerce systems will be reviewed and updated, to ensure that users are made aware of how their information will be used and published in accordance with Freedom of Information and Data Protection legislation.

The target date for implementation of these actions is December 2018.

Open contracting portal

We recognise that it would be preferable to have published information available in one place as it facilitates the joining of information from various sources and enables more engagement. To achieve this we will develop an open contracting portal in order to provide a central location for our procurement information. Planned activities include:

- Specifying, building and maintaining an Open Contracting portal.
- Consulting widely to understand what information needs to be available to ensure that the open contracting portal is useful and presenting the information in a way which is accessible to all audiences with meaningful visualisations.
- Providing information from relevant SG eCommerce systems automatically via application programming interfaces (API), this is consistent with the 4 star publication levels on OCDS.
- Providing the opportunity to include other complimentary information, for example our Annual Procurement Strategy

Our aim is to launch a beta version of the Open Contracting portal in 2018.

Annex 2 - Data principles

To ensure the best possible use and understanding of the information we publish, the following information principles will be followed:

- Information that is published should be of a high quality. We will seek to ensure that published information is comprehensive and accurate.
- Published information should be accessible, and easy for others to find and to understand. Therefore, all information should be provided with accurate metadata. This provides an opportunity to enhance the value of the information and provide clarity on what the information is and what it is not, any limitations to the information and/or its use can also be included within the metadata. Where there are gaps in information we will clearly explain why.
- The Open Data Strategy recommends publishing all information in a format of 3* or above (of the universally recognised [5* open data schema](#) by Sir Tim Berners-Lee) by 2017.
- A feedback mechanism should be created to allow continuous improvement
- Information should be provided on an on-going basis and not as a onetime publication

Annex 3 - Open contracting in other countries

The Open Contracting movement is growing throughout the world and, in 2016 alone, the [Open Contracting Partnership](#) reported that there has been a “dramatic rise in the adoption of open contracting, with over 25 countries committing to open contracting in their public procurement in some form”⁵. 2016 was also the year of the first high level global recognition that public contracting and procurement information should be open-by-default. This was recognised at both the 2016 UK Anti-Corruption Summit and in the Open Government Partnership’s December 2016 Paris Declaration.

The UK Government

The UK is the first G7 country to commit to the Open Contracting Data Standard (OCDS) for contracts administered by a central purchasing authority, Crown Commercial Service (CCS). They aim to increase contracting transparency, and allow a deeper analysis of contracting data by a wide range of users. The UK is taking a phased approach and as a first step has published a contract dashboard and open contract statistics. This complements the transparency initiatives already in place such as publishing tender and contract documents on [Contracts Finder](#). A daily snapshot of the Contracts Finder dataset is also available via a public API interface. This allows users to search the Contracts Finder database and download the results in various open formats.

Ukraine

A coalition of businesses, civil society and government reformers created an award winning open contracting system, called [ProZorro](#) (meaning “transparent” in Ukrainian). Built on open source software and compliant with the Open Contracting Data Standard, the system has been designed to make it possible for government bodies to conduct procurement exercises electronically, in a transparent manner, while also making the information about public contracts easily accessible online for anyone to see. Although it was initially conceived as a tool for fighting corruption, the benefits of the system are much broader - increasing competition, reducing the time and money spent on contracting processes, helping buyers make better decisions and making procurement fairer for suppliers. In its first year, it saved the government 14% on its planned spending. This openness has encouraged a 50% increase in companies bidding for contracts, mostly smaller businesses that were previously shut out.⁶

⁵ <http://www.open-contracting.org/2017/02/09/landscape-open-contracting-tools/>

⁶ <http://www.open-contracting.org/2016/05/11/biggest-hope-ending-corruption-open-public-contracting/>

Mexico City

Mexico City is the first city in the world to publish contracting information on all 5 stages of the Open Contracting Data Standard. On June 20, 2016 the city launched its [open contracting portal](#), which enables citizens, business people and government representatives to see how the government is spending public money throughout the lifecycle of their contracts. The Department of Finance was the first of the city's agencies to pilot open contracting by opening more contract data to the public, which will help encourage competition, fight corruption and save taxpayers' money.



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