



Cabinet Office

# Guidance on the transparency requirements for publishing on Contracts Finder

This guidance applies to procurements that are subject to the Public Contracts Regulations 2015 (PCRs 2015).

Part 1 applies to all In-Scope Organisations across the public sector. For exemptions see section 6.

Additional guidance for Central Government authorities is covered in Part 2.

The guidance underpins regulations 48-52, 106, 108, 109, 110 and 112 of the PCRs 2015. It explains the main features of the relevant Regulations, but is not a comprehensive guide to the law. You should seek legal advice if you are unsure about the effect of the Regulations.

## Part 1

### Guidance applicable to all In-Scope Organisations

#### 1. Introduction

The PCRs 2015 (as amended) include obligations on all contracting authorities (with a few exceptions listed below at section 6) to make public sector opportunities available in one place, on Contracts Finder. Contract award information relating to the winning contractor should also be made available on Contracts Finder.

Contracts Finder is free to use and is accessible here: [www.gov.uk/contracts-finder](http://www.gov.uk/contracts-finder)

#### 2. The requirements

The PCRs 2015 require the majority of above-threshold contract opportunities to be advertised across the UK on Find a Tender (FTS), the UK's new e-notification service, and also on Contracts Finder. Where the Regulations require a notice to be published on the UK e-notification service it must be published on FTS before being published on Contracts Finder or anywhere else<sup>1</sup>.

---

<sup>1</sup> Regulation 52.

In-Scope Organisations are also required to ensure that any below-threshold procurement opportunities are published on Contracts Finder (in addition to any other portal or publications route) subject to the contract value limits set out in section 3.

Once a contract has been awarded as a result of a procurement process, contracting authorities must also publish information on Contracts Finder about the awarded contract including the date of the award, the details of who has won the contract (including whether the contractor is a Small/Medium Sized Enterprise (SME) or a Voluntary, Community or Social Enterprise (VCSE<sup>2</sup>) and the contract value.

### 3. Contract values for publication on Contracts Finder

Publication obligations for below-threshold procurements apply to central government<sup>3</sup> authorities where the contract value is at least £10,000<sup>4</sup> net of VAT and to sub-central authorities and NHS Trusts where the contract value is at least £25,000<sup>5</sup> net of VAT.

### 4. Specific requirements for placing contract opportunities on Contracts Finder

The requirement to publish a contract opportunity on Contracts Finder applies where an In-Scope Organisation advertises an opportunity, either by publishing a Contract Notice on FTS<sup>6</sup>, or by advertising in another way<sup>7</sup>, for example on another website, trade publication or newspaper.

Where an In-Scope Organisation is satisfied it is lawful not to advertise an opportunity and chooses not to advertise the opportunity at all (e.g. where quotations are sought, single tender action is being considered, a framework agreement or DPS is used, etc), the requirement to publish an opportunity notice on Contracts Finder does not apply to that procurement.

Before concluding that an opportunity does not need to be advertised, In-Scope Organisations should consider whether the contract would have cross-border interest. This should be documented as part of the procurement records.

#### Timing of publication

If the opportunity appears in any other way on other portals or media, the information must also be published on Contracts Finder **within 24 hours** of the time when it is first advertised for below-threshold procurements<sup>8</sup> and **within 24 hours** of the time the In-Scope Organisation is entitled to publish at a national level for above-threshold procurements<sup>9</sup>.

Many contracting authorities use e-procurement providers to publish to both FTS and Contracts Finder. Notices are not automatically replicated between FTS and Contracts Finder, but e-procurement providers may offer this as part of their workflow.

Unlike OJEU/TED, there is no delay in publication of notices to Find a Tender. Therefore notices can be sent to both Find a Tender and Contracts Finder at the same time<sup>10</sup> (but In-Scope Organisations should bear in mind that notices should not be published on Contracts Finder before publication on FTS).

---

<sup>2</sup> Regulation 112

<sup>3</sup> "Central government authorities" means the Crown and all the bodies listed in Schedule 1 to the Regulations – see also regulation 2. Departments may also apply the provisions of part 2 of this guidance to their wider families - refer to scope in part 2 for details.

<sup>4</sup> Regulation 109(2)

<sup>5</sup> Regulation 109(2)

<sup>6</sup> Regulation 106(1)

<sup>7</sup> Regulation 110

<sup>8</sup> Regulation 106(1)

<sup>9</sup> Regulation 110(3)

<sup>10</sup> In accordance with regulation 52(3)

Issues with publication should be promptly addressed if notices are not appearing on Contracts Finder.

The requirement to publish an opportunity notice on Contracts Finder also applies when the In-Scope Organisation is in the process of establishing a new framework agreement or dynamic purchasing system.

## 5. Minimum data requirements for publication

### Procurement opportunities

The following information should be published as a minimum, however In-Scope Organisations are advised to check the PCRs 2015 to ensure that all the necessary requirements have been met:

1. the time by which any interested supplier must respond if it wishes to be considered;
2. how and to whom an interested supplier is to respond, with appropriate contact details; and,
3. any other requirements for participating in the procurement, (e.g. suitability requirements or explanatory information).<sup>11</sup>

Contracts Finder contains additional, mandatory fields that will need to be completed in order for a notice to be published. If an opportunity is also advertised elsewhere the information provided must be common in content.

In most circumstances the PCRs 2015 require In-Scope Organisations to offer unrestricted and full direct access free of charge to any relevant procurement documents<sup>12</sup> or, for below threshold procurements, contract (tender) documents<sup>13</sup> and to specify in the information published on Contracts Finder the internet address at which those documents are accessible<sup>14</sup>.

A contract document in this context is defined as:

1. a document which contains information about the opportunity which goes beyond the information published on Contracts Finder, and
2. that information is intended by the In-Scope Organisation to be taken into account by those responding to the advertisement.

This would include the invitation to tender, specification, evaluation framework including all criteria and applicable sub criteria, terms and conditions etc.

### Contract award

Once a contract has been awarded (whether by open competition or otherwise) In-Scope Organisation are required to publish at least the following information on Contracts Finder<sup>15</sup>:

1. the full company name of the winning contractor;
2. the date on which the contract was entered into (award date);
3. the total value of the contract in pounds sterling; and
4. an indication of whether the contractor is an SME or a VCSE<sup>16</sup>.

---

<sup>11</sup> Regulation 106(2) and regulation 110(8)

<sup>12</sup> As defined in regulation 2

<sup>13</sup> Regulation 110(12)

<sup>14</sup> Regulations 53(1), 106(2)(a) and 110(12). Regulation 53(3) and (4) detail the circumstances when unrestricted and full direct access cannot be offered for Part 2 procurements. Regulation 110(13) does not require a contracting authority to provide such access in relation to below-threshold procurements where the access cannot be offered for a "relevant reason". This means any reason which, in accordance with regulation 53(3) and (4), would have applied if the procurement had been covered by Part 2 and the relevant contract documents had been procurement documents.

<sup>15</sup> Regulation 108(2) & 112(1)

<sup>16</sup> As defined in regulation 112(4)

This information is also required<sup>17</sup> to be published in relation to contracts awarded as a result of a Framework Agreement (e.g. as a result of a mini competition) as well as awards that have not been openly competed (e.g. where quotations have been sought, single tender action has been undertaken etc).

If an opportunity notice already exists on Contracts Finder, this should be updated with the award details. If no opportunity notice exists on Contracts Finder (for example if the contract was not openly competed, or is a direct award or mini competition call off from a framework agreement or via a DPS) then a separate awarded opportunity notice should be published.

### Timing of publication

The PCRs 2015<sup>18</sup> require that information must be published on Contracts Finder within a reasonable time. This guidance defines reasonable time as follows:

- For sub-central contracting authorities, reasonable time means **90 calendar days after the contract award date**.
- For Central Government authorities, reasonable time means **30 calendar days after the contract award date**. There are additional requirements to publish the contact documents alongside the award details - these are set out in Part 2.

In-Scope Organisations should comply with these timeframes for publication on Contracts Finder unless there is a good reason not to, which should be documented.

For the purpose of this guidance, 'Award Date' means the date on which the contract was signed by the last contractual party. The calendar day after the contract is signed counts as day one. Where the deadline date for publication ends on a non-working day, the authority has until the end of the next working day to publish the award (and contract documents where applicable).

Where possible, In-Scope Organisations should try to ensure key information is presented consistently across platforms and across individual notices published by the same authority. This includes:

- contracting authority names;
- procurement reference numbers;
- contract titles;
- description, which should be sufficiently detailed that the reader can understand the authority's requirement;
- values; and
- successful supplier details, including supplier identifiers.

There are some exceptions to this requirement, and an In-Scope Organisation may withhold contract award information from publication where its release:

- would impede law enforcement or would otherwise be contrary to the public interest;
- would prejudice the legitimate commercial interests of a particular supplier; or
- might prejudice fair competition between suppliers<sup>19</sup>.

Legal advice should be sought in determining whether any information may be withheld.

## 6. Exemptions

These requirements to publish certain information on Contracts Finder do not apply to:

---

<sup>17</sup> Regulation 108(1)(b)

<sup>18</sup> Regulation 108 & 112

<sup>19</sup> Regulation 108(3) and regulation 112(2)

- Contracting authorities carrying out devolved or mainly devolved functions in Scotland, Wales and Northern Ireland;
- The procurement of health care services for the purposes of the NHS within the meaning and scope of the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013(b);
- Maintained schools, academies and sixth form college corporations.

A table summarising these publication requirements is provided at Annex 1.

## Part 2

### Additional policy guidance for central government authorities<sup>20</sup>

#### Scope

As a minimum, the following guidance applies to the central government authorities defined in schedule 1 of the PCRs 2015. This is with the exception of NHS trusts which for the purposes of this guidance are to be considered as sub-central authorities.

This is not an exhaustive list and the definition of central government authorities is revised from time to time.

For the purposes of this Part 2, departments may include other Executive Agencies and bodies for which they are responsible that are not explicitly listed on Schedule 1 as central government authorities, and should encourage their wider families of ALBs and NDPBs to adopt this transparency policy on a voluntary basis as appropriate.

Departments should keep this coverage under review.

#### The following guidance applies to procurements above £10,000 net of VAT<sup>21</sup>

The intention of these additional policy requirements is to provide greater visibility to the public of government contracting by publishing tender and contract documents with the appropriate notice on Contracts Finder.

##### 1. Publishing contract (tender) documentation at the opportunity stage

When advertising opportunities<sup>22</sup>, the PCRs 2015 require In-Scope Organisations to provide unrestricted free and direct access to the tender documents. This should, if implemented correctly, meet the requirements of the transparency policy for central government.

However in practice, the process for e-tendering presents a barrier, where for example registration is required to access the tender document suite on an e-procurement platform. In those circumstances, whilst it could be argued that the requirements of the PCRs 2015 are being met for interested bidders, insufficient visibility would be provided to the general public. In such cases In-Scope Organisations would need to publish copies of the procurement or contract (tender) documentation on Contracts Finder. This includes the following, or the nearest equivalent, as a minimum:

- the specification;
- plans, e.g. site plans and other supporting documents relating to the requirement;
- invitation to tender (ITT)/request for quotation, or invitation to participate in dialogue;
- standard selection questionnaire (SSQ);
- template terms and conditions of contract.

##### 2. Publishing contract documentation at the award stage

In addition to the requirements to publish details of the award set out in section 5 of Part 1 of this guidance, In-Scope Organisations should publish the awarded contract documents with the awarded opportunity notice on Contracts Finder **within 30 calendar days of the award of the contract**.

---

<sup>20</sup>As defined in regulation 2

<sup>21</sup> For sub-central contracting authorities complying with this part the guidance applies to contracts above £25,000 net of VAT.

<sup>22</sup>In accordance with the timescales set out in regulation 106 (2) and regulation 110 (8)

Where departments have agreed to adopt this transparency policy with their sub-central NDPBs or ALBs on a voluntary basis, these bodies should aim to publish the awarded contract documents with the awarded opportunity notice on Contracts Finder **within 90 calendar days of the award of the contract**.

The awarded contract documents would include the signed contract and other associated documents that may include:

- the specification;
- terms and conditions (T&Cs);
- any associated schedules (which may include the winning tenderer's bid).

For the purpose of this guidance, 'Award Date' means the date on which the contract was signed by the last contracting party. The first calendar day after the contract is signed counts as day 1.

Where the deadline date for publication ends on a non-working day, the authority has until the end of the next working day to publish the award (and contract documents if applicable).

In the event of a contract variation/amendment, the amended contract documents do not need to be published on Contracts Finder - further detail can be found in the FAQ.

### 3. Preparing documents for publication

The guiding principle is that contracts should be published in full, subject to any applicable exemptions and redactions being made - see below. The [Transparency Principles](#) require departments to proactively release information during the life of the contract.

#### Use of transparency clauses

Transparency clauses should be included as standard in terms and conditions to establish the Government's principle of publication. There should be a two-way dialogue to review the contract documents with the successful supplier and identify which information is to be considered for redaction.

Ideally there would be agreement between the In-Scope Organisation and the successful supplier to agree which information is to be released; however, ultimately it is for the In-Scope Organisation to assess and decide what information should be published.

The following information should generally be disclosable:

- the identity of the parties, the contract term, options for extension, overall value (if fixed);
- information setting out the essential obligations of the parties, including e.g. specification/description of services, manner of provision etc.;
- warranties, indemnities and other protections (unless the existence of those clauses would be commercially sensitive) but with values redacted (where appropriate).

#### Exemptions and redactions

Exemptions from publication are permitted by following the provisions of the Freedom of Information Act 2000, for example:

- on national security grounds (e.g. publication of the information has the potential to cause harm to the UK);
- on data protection grounds (e.g. names and contact information of individuals should not be published);
- on commercial sensitivity grounds (see below).

The circumstances where an entire contract document suite can be withheld are likely to be limited. Each document needs to be considered separately to determine how much of the information should be withheld.

There are two types of exemptions, 'absolute' exemptions and 'qualified' exemptions. The Freedom of Information Act 2000 sets out which exemptions are absolute and which are qualified.

Where an absolute exemption applies, the relevant information to which it applies is automatically exempt from publication. Redaction of the relevant information will automatically be justified in these circumstances. However the exemption only applies to that specific type of information, for example personal data can be withheld but this does not mean the whole document which contains that personal information should be. The information should instead be redacted.

Where a qualified exemption applies, this does not mean that the relevant information to which it applies is automatically exempt from publication and you are therefore not entitled to automatically withhold the information from publication.

Once you have identified that a qualified exemption applies to certain information contained within the contract, you then need to apply the public interest test to establish whether or not the exemption is justified. If, as a result of applying this test, part of a contract is deemed to be exempt from publication, this does not automatically mean that the whole contract should be withheld, as each individual element of the contract should be assessed separately.

It is only those elements of the contract to which exemptions apply and can be justified (where it is a qualified exemption) that should be withheld from publication. In some, but limited, circumstances this could result in all information from the contract being redacted and therefore withheld from publication.

## Commercial information

Outside of the obligations stated in the PCRs 2015, the Transparency Principles set out that the following categories of information could be reasonably withheld on the grounds of commercial confidentiality:

- **Pricing.** The way the supplier has arrived at the price they are charging including:
  - individual pricing elements;
  - financial models and business plans including details of profit margins and overheads;
  - matters which enable the make-up of the bid to be determined; and
  - financial information which would affect the outcome of re-bid or future procurement etc.but this should not be grounds for withholding the contract value itself.
- **Intellectual property.** Elements of the bid (and evaluation documents) which reveal intellectual property for example:
  - proprietary details of the solution that the contractor is deploying for government;
  - information that is copyright to the supplier;
  - elements of the bid (and evaluation documents) which reveal innovative or unique technical solutions; and methodologies
  - elements of the bid (and evaluation documents) which reveal trade secrets;

This is not an exhaustive list and each contract should be considered on a case by case basis. Only genuinely sensitive information should be withheld.

## How to redact appropriately

Once you have established which, if any, contractual information is exempt from publication, you must redact the relevant information prior to publication.

It is advised that you make a duplicate (electronic copy) of the original contract and delete the relevant information to be redacted from the duplicate copy and insert in its place a statement indicating that the text has been redacted and identify the relevant exemptions set out by the Freedom of Information Act 2000, for example:

### 24 VARIATION AND AUTHORISED REPRESENTATIVE

24.1 No variation of this Agreement shall be binding unless it has been agreed in writing and signed by an authorised representative of both Parties. At the date of this Agreement such representatives are **Redacted Under FOIA Section 40, Personal Information** for the Authority and **Redacted Under FOIA Section 40, Personal Information** for the Supplier. **The representative of a Party may be varied by that Party by notice in writing to the other Party.**



Once redacted, this is the version that should be used for publication. Avoid applying redactions to the original contract as this should be retained for departmental records. Further information on the FOI Act can be found here: <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

Note, it is essential that the published version cannot be deciphered once published, further information can be found via the following National Archives link: [http://www.nationalarchives.gov.uk/documents/information-management/redaction\\_toolkit.pdf](http://www.nationalarchives.gov.uk/documents/information-management/redaction_toolkit.pdf)

## 4. Extenuating circumstances

In-Scope Organisations should comply with these policy requirements and timescales wherever possible. Exceptionally, if an organisation's normal processes cannot be followed and there is a delay to publication, then this must be addressed as soon as reasonably practicable.

### High volume transactional frameworks and Dynamic Purchasing Systems

In order to manage publication of high volumes of award information to Contracts Finder arising from transactional frameworks, In-Scope Organisations are not required to publish individual notices and documents for each transaction over the contract value limit. Instead a single notice containing documentation that sets out volumes procured under each framework/ DPS can be published on Contracts Finder on a quarterly basis. In-Scope Organisations should ensure that they document which of their procurement activity they will include under this publication regime.

## 5. For further information

Additional FAQs are provided at annex 2 alongside a graphical representation of how to calculate timescales at annex 3.

Please contact the Crown Commercial Service Help Desk on T: 0345 410 2222  
E: [info@crowncommercial.gov.uk](mailto:info@crowncommercial.gov.uk)

## Annex 1 Requirements to publish on Contracts Finder

Opportunities					
Who	What	Applicability	Where	When	Relevant regulation
Central government authorities as defined by regulation 2 (and any additional contracting authorities as agreed between the department and the bodies for which they have responsibility).	Publish an opportunity notice and attach the procurement or contract (tender) documents)	When advertising an opportunity above £10,000	Contracts Finder	Where a contract notice is published on FTS <sup>23</sup> , publish within 24 hours of the time when the authority becomes entitled, in accordance with regulation 52(3) and (4), to publish the notice at national level. or  Publish within 24 hours of the time when it first advertises the contract award opportunity in any other way.	<a href="https://www.legislation.gov.uk/uksi/2015/102/regulation/106/made">https://www.legislation.gov.uk/uksi/2015/102/regulation/106/made</a> and Part 2 of this guidance which covers additional requirements to publish procurement / contract documents at the opportunity stage.  <a href="https://www.legislation.gov.uk/uksi/2015/102/regulation/110/made">https://www.legislation.gov.uk/uksi/2015/102/regulation/110/made</a>
Sub-central contracting authorities within scope of Part 4 of the Public Contracts Regulations 2015.  This excludes: •the devolved administrations of Scotland, Wales and Northern Ireland in respect of functions that are wholly or mainly devolved; •the procurement of health care services for the purposes of the NHS; •maintained schools, academies and sixth form college corporations.	Publish an opportunity notice  (and attach the procurement or contract (tender) documents, if voluntarily adopting the transparency policy in part 2).	When advertising an opportunity above £25,000	Contracts Finder	Where a contract notice is published on FTS <sup>24</sup> , publish within 24 hours of the time when the authority becomes entitled, in accordance with regulation 52(3) and (4), to publish the notice at national level. or  Publish within 24 hours of the time when it first advertises the contract award opportunity in any other way.	<a href="https://www.legislation.gov.uk/uksi/2015/102/regulation/106/made">https://www.legislation.gov.uk/uksi/2015/102/regulation/106/made</a>  <a href="https://www.legislation.gov.uk/uksi/2015/102/regulation/110/made">https://www.legislation.gov.uk/uksi/2015/102/regulation/110/made</a>

<sup>23</sup> Regulation 49

<sup>24</sup> Regulation 49

Awards					
Who	What	Threshold	Where	When	Relevant regulation
Central government authorities as defined by regulation 2 (and any additional contracting authorities as agreed between the department and the bodies for which they have responsibility).	Publish an awarded opportunity notice <b>and</b> attach the awarded contract documents, redacted as appropriate.	Where a public contract is awarded above £10,000 (including framework call-offs)	Contracts Finder	Within 30 calendar days of award	<p><a href="https://www.legislation.gov.uk/ukSI/2015/102/regulation/108/made">https://www.legislation.gov.uk/ukSI/2015/102/regulation/108/made</a> (above threshold &amp; framework call offs)</p> <p><a href="https://www.legislation.gov.uk/ukSI/2015/102/regulation/112/made">https://www.legislation.gov.uk/ukSI/2015/102/regulation/112/made</a> (below threshold)</p> <p>The timescales for publication are defined in Part 1 of this guidance and Part 2 of this guidance covers additional requirements to publish the awarded contract documents with the award.</p>
<p>Sub-central contracting authorities within scope of Part 4 of the PCRs 2015.</p> <p>This excludes:</p> <ul style="list-style-type: none"> <li>•the devolved administrations of Scotland, Wales and Northern Ireland in respect of functions that are wholly or mainly devolved;</li> <li>•the procurement of health care services for the purposes of the NHS;</li> <li>•maintained schools, academies and sixth form college corporations.</li> </ul>	<p>Publish an awarded opportunity notice.</p> <p>(and attach the awarded contract documents, redacted as appropriate if voluntarily adopting the transparency policy in part 2).</p>	Where a public contract is awarded above £25,000 (including framework call-offs)	Contracts Finder	Within 90 calendar days of award	<p><a href="https://www.legislation.gov.uk/ukSI/2015/102/regulation/108/made">https://www.legislation.gov.uk/ukSI/2015/102/regulation/108/made</a> (above threshold &amp; framework call offs)</p> <p><a href="https://www.legislation.gov.uk/ukSI/2015/102/regulation/112/made">https://www.legislation.gov.uk/ukSI/2015/102/regulation/112/made</a> (below threshold)</p> <p>The timescales for publication are defined in Part 1 of this guidance.</p>

## Annex 2 FAQs on publishing central government contracts

<p>Why have the timescales for publishing Central Government contracts been changed?</p>	<p>The timescales have been adjusted to align with the requirements for publishing award information on Find a Tender under regulation 50. This requires that, when awarding a contract or concluding a framework agreement, in each case to which Part 2 of the PCRs 2015 applies (i.e. contracts above the thresholds set out in <a href="#">PPN 06/19</a> and as amended from time to time), contracting authorities must, <b>not later than 30 calendar days after the award of the contract</b>, send a Contract Award Notice for publication on <a href="#">Find a Tender</a> (unless your procurement was commenced prior to the end of the transition period, in which case please refer to <a href="#">PPN 08/20</a>).</p> <p>The requirement to publish a Contract Award Notice on FTS applies to above threshold procurements and includes:</p> <ol style="list-style-type: none"> <li>a. conclusion of framework agreements;</li> <li>b. contracts that have not been openly competed, including direct awards under regulation 32;</li> <li>c. call-off contracts from Dynamic Purchasing Systems (which can either be published in quarterly batches or individually within 30 days).</li> </ol>
<p>Occasionally, services are commenced prior to the signature of a contract. Some contracts (such as framework direct awards) may not be formally signed. How is “Award Date” to be interpreted in these circumstances?</p>	<p>In such cases for the purpose of publication on Contracts Finder ‘Award Date’ can be interpreted as the day before the service commencement or the order date of goods as appropriate. If neither of these dates is considered relevant then the authority should seek further advice.</p>
<p>Do we need to publish individual statements of work (SOWs) from call off contracts?</p>	<p>It might be the case that a statement of work or tasking order is the sole evidence that a contract has been awarded, in which case this information should be published on Contracts Finder. Conversely if there are SOWs or tasking orders that specify blocks of work under an overarching call off contract, the call off contract itself would need to be published, but individual SOWs under that call off would not need to be.</p>
<p>When calling off from a framework, whose responsibility is it to publish transparency notices?</p>	<p>It is ultimately the In-Scope Organisations undertaking the procurement’s responsibility to ensure transparency obligations are met even when using a managed service.</p>
<p>What are the requirements for publishing</p>	<p>Separate award notices should be published and documents should be attached to each one. A link should</p>

<p>where there is a programme of work from one contract notice but multiple contracts are awarded (not a Framework)?</p>	<p>provided to the overarching contract notice.</p>
<p>Am I required to publish arrangements to provide services between Crown bodies under, for example MOUs?</p>	<p><a href="#">Regulation 12</a> of the PCRs governs public contracts between entities within the public sector.</p> <p>Arrangements to provide services between Crown bodies under, for example, MOUs are non-contractual and therefore exempt from publication. Certain other arrangements which follow similar principles may also be exempt. Such circumstances would be limited, i.e. where a department or public body can prove that they are receiving services from another public body where:</p> <ul style="list-style-type: none"> <li>● it relates to the core business of the public body and</li> <li>● it is not something the market could provide, so therefore</li> <li>● they have implemented an SLA where there is no contract and no external competition.</li> </ul> <p>These arrangements would be exempt from publication. If in doubt, you should seek advice to establish the contractual status of such arrangements.</p>
<p>Do contract variations/modifications and any associated documentation need to be published on Contracts Finder?</p>	<p>Those modifications allowed by regulation 72 and that have to be submitted via a modification notice to FTS do not result in a new contract being formed between the department and the supplier and, whilst this may result in a contract change note or deed of variation being produced, these do not need to be published on Contracts Finder either as a new notice or by amending an existing award notice.</p>
<p>What documentation should I publish when extending, retendering or renegotiating a contract?</p>	<ul style="list-style-type: none"> <li>● If a contract extension results in a new contract, then the new contract should be published on Contracts Finder within 30 calendar days of award (if the extension does not result in a new contract, refer to above FAQ).</li> <li>● When re-tendering a contract, this is a <i>new</i> procurement and so departments are required to publish the resulting contract within 30 calendar days of award.</li> <li>● When renegotiating existing contracts with suppliers results in a new contract being formed (i.e. because any change agreed is significant enough to change the nature of the original contract), you are required to publish the new contract via a modification notice on FTS (where applicable) and a new Contracts Finder awarded opportunity notice within 30 calendar days of award.</li> </ul>

What needs to happen on Contracts Finder if a Corrigendum notice is issued on FTS?	The relevant notice on Contracts Finder should be updated.
What evidence should I provide if a contract has been terminated?	Where a contract is terminated following publication of the contract, you should update the details on Contracts Finder to explain that the contract has been terminated and where possible, the reason for termination.
Should overseas contracts be published?	Departments should consider which overseas contracts are suitable for publication on Contracts Finder on a case by case basis. There may be good reasons (for example on grounds of national security) where certain overseas contracts can be withheld. Where contracts are published in a language other than English, departments should consider the resource required to translate such contracts against the interest to the UK public in disclosing such information. Contracts that are likely to attract UK suppliers' interest in bidding, or that meet the UK public interest test should be published on Contracts Finder in English.
Is there a requirement to publish on Contracts Finder contracts for services excluded under regulation 10 of the Public Contracts Regulations 2015 either when awarded through a procurement or via a framework agreement?	No, services that would be excluded from Part 2 under regulation 10 of the Public Contracts Regulations, for example certain legal services, do not require publication on Contracts Finder regardless of whether these are awarded directly or via a call off from a framework agreement. This applies even if the framework agreement itself is established under part 2 of the regulations and covers a mix of services.
Are there any below threshold contracts or tenders and associated notices that don't need to be published on Contracts Finder?	The requirements to publish notices (and associated documents where applicable) over the low value limit of £10,000 central and £25,000 sub-central relate to procurements that would, but for their value, otherwise be subject to part 2 of the PCRs 2015. Procurements that would not have been subject to the PCRs, for example, certain defence-related procurements that would, but for their value, otherwise be subject to the DSPCRs, do not need to be published. In-scope organisations should seek legal advice if unsure.
Should sub-contracts be published?	The requirement to publish contracts on Contracts Finder does not extend to sub-contracts unless the contracting authority is a party to the sub-contractor, or if this obligation is already covered in PPN 01/18 for the prime contractor to undertake under contracts valued over £5M per annum.

<p>Is information on Contracts Finder published under an Open Government License and what are the implications for publication?</p>	<p>Yes, Information published on Contracts Finder is published under an Open Government Licence. There are a range of data outputs to enable customers to reuse the data that we publish. Details are available on the government's open contracting page <a href="#">here</a>. You should ensure that documents are published in line with open data principles. Further information about the Open Data Principles can be found <a href="#">here</a>.</p>
<p>What should I do if some of the contract information is subject to the copyright of the supplier?</p>	<p>The Open Government Licence does not cover the use/re-use of information that the Government is not authorised to license, for example information that is protected by copyright owned by the supplier. Where information contained within the contract is protected by copyright owned by the supplier, assess the information (as you would do with the rest of the contract) against the Freedom of Information Act principles to ascertain whether or not an exemption applies and can be justified after applying the public interest test. Note that where a piece of information has copyright protection, this will not automatically mean that redaction would be justified (especially if the information is already in the public domain).</p> <p>Where information cannot be redacted under the Freedom of Information Act principles, state at the point of publication that the published contract may contain information which is protected by copyright owned by the supplier and which is not subject to the Open Government Licence and therefore the public will have no right to copy/reuse information which is protected by copyright owned by the supplier. Also make it clear that, should the public wish to copy or re-use such information, they will need to seek the necessary authorisation from the copyright owner (supplier).</p>
<p>What should I do if the contract itself is subject to third party copyright?</p>	<p>Where departments are using or have accepted non-governmental terms and conditions, such as model contracts owned by a third party (for example, NEC, JCT and PPC 2000 model contracts) or a supplier's terms and conditions that are protected by copyright owned by that third party, these should not be published without the agreement of the supplier. Instead, the name and edition of the form of contract must be cited together with the relevant contact point where further details can be obtained. This is to enable the public to get specific contractual information in relation to the terms and conditions. Subject to any necessary redactions in line with this guidance, departments are also required to publish any amendments that have been made to the standard form of contract.</p>
<p>Is there a template for a suitable transparency clause for inclusion in contracts?</p>	<p>An example transparency clause is set out in clause 23 of the Model Services Contract: <a href="https://www.gov.uk/government/publications/model-services-contract">https://www.gov.uk/government/publications/model-services-contract</a></p>

Is there suggested transparency text for inclusion on Government websites?

**The recommended text is as follows:**

***Procurement Transparency***

The government is committed to greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public procurement. These measures include:

- Requirements in the PCRs 2015 to publish advertised opportunities and contract awards above certain low thresholds- £10,000 in Central Government- on Contracts Finder.
- Policy commitments to publish all central government contracts over the value of £10,000 to be published in full online.
- Items of central government spending over £25,000 to be published online.
- Adoption of the Government's Transparency Principles.

Suppliers and those organisations looking to bid for public sector contracts should be aware that if they are awarded a new government contract, the resulting contract between the supplier and government will be published. In some circumstances, limited redactions will be made to some contracts before they are published in order to comply with existing law and for the protection of national security.



### Annex 3 How to calculate timescales flowchart

A central government authority awards a contract:

