



Scottish Government
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Scottish Procurement Buyer's Guide

Digital Technology Services
Dynamic Purchasing System (DPS)

Contents

1. Introduction	3
2. Scottish Procurement points of contact	3
3. Aim of the DPS	3
4. Scope of the DPS	4
5. DPS overview	5
6. What is a dynamic purchasing system (DPS)?	5
7. How does a DPS operate	5
8. Benefits	7
9. Using the DPS for tenders	7
10. Call for Competition	8
11. Terms and Conditions	9
12. Awarding contracts	9
13. IR35: Off-Payroll Working	10
14. Frequently asked questions:	10

Foreword and acknowledgements

Scottish Procurement aims to deliver benefits to the people of Scotland through improved value for money for taxpayers, improved goods and services for all our citizens and economic opportunities for Scotland. This is achievable through effective collaboration throughout the procurement cycle.

Scottish Procurement would like to acknowledge the work, support and contribution from all sector representatives. Their input has helped to shape the direction of the project to a successful outcome.

1. Introduction

This buyers' guide aims to assist public sector bodies in selecting the most suitable and cost effective services from a range of suppliers to suit individual requirements from a range of suppliers. This document is designed to guide organisations through the selection process and provide organisations with peace of mind regarding the services purchased through this Digital Technology Services - Dynamic Purchasing System (DPS).

2. Scottish Procurement points of contact

DPS Manager: Alasdair Rowan
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Senior Portfolio Specialist, Scottish Procurement

ICT Services Manager: Margaret Anne McKeown
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Portfolio Manager, Scottish Procurement

3. Aim of the DPS

Technology is transforming the way public services are being delivered and there has been significant growth in the demand for digital services as identified in the [Scottish Government's Digital Strategy](#). There is a desire by organisations to have access to a wide range of digital and technology services suppliers (especially SMEs) to support agile working, mitigate the skills gap and further develop their cyber security processes. Also, there are procurement aspirations in terms of streamlining the procurement process and reducing barriers for participation in public sector contracts.

In this context, Scottish Procurement has been working collaboratively with cross sectoral colleagues and key stakeholders in developing a DPS for Digital Technology Services.

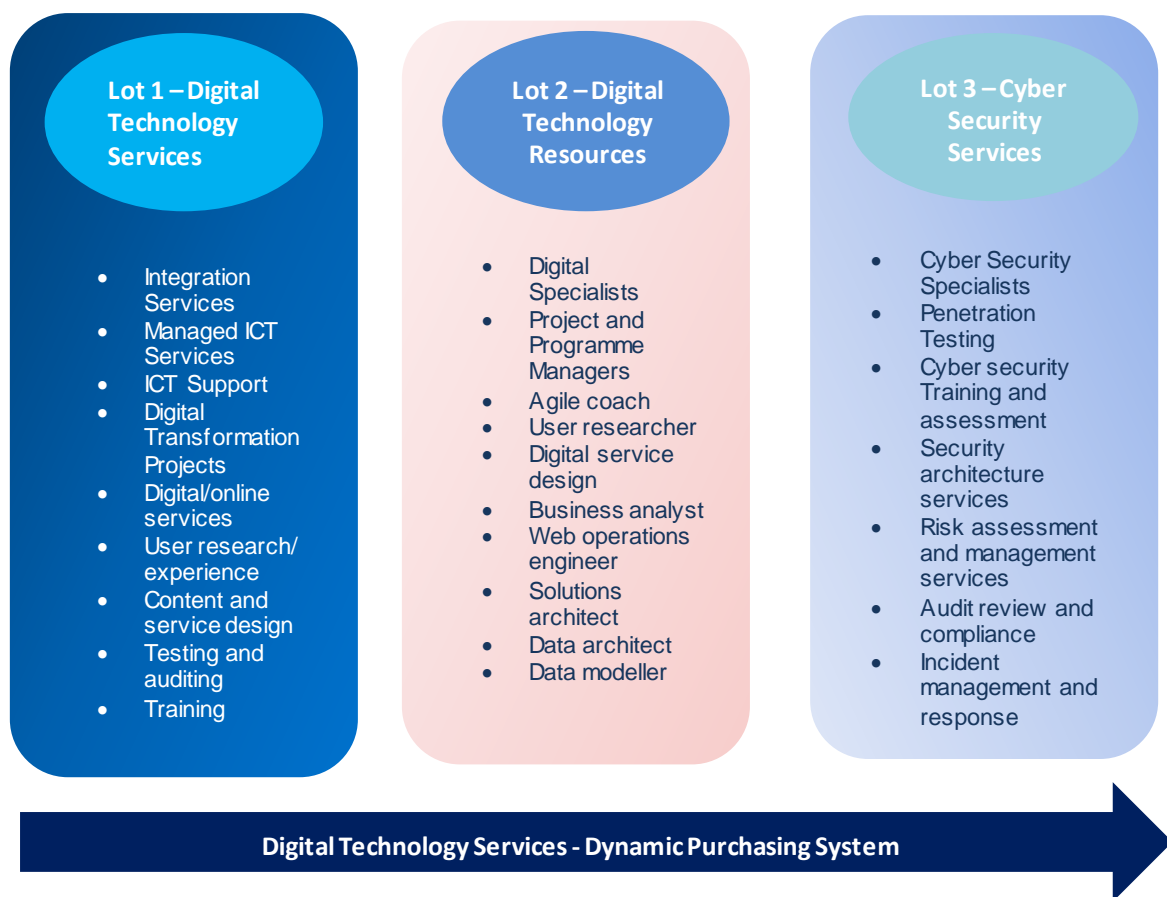
The ambition for the DPS is to offer a straightforward, flexible and quick route to market for all Scottish public sector organisations and to be a low entry barrier for digital and technology services suppliers who will only need to satisfy the minimum criteria to gain entry.

4. Scope of the DPS

The structure for the Digital Technology Services DPS is split into 3 lots:

- Lot 1 Digital Technology Projects
- Lot 2 Digital Technology Resources
- Lot 3 Cyber Security Services

Some examples of the types of services to be delivered under each Lot can be seen in the diagram below:



Note: this is not intended to be an exhaustive list of services but at a high level illustrates the range of potential services which may be requested.

Software/Hardware and Cloud Solutions are out of scope of the DPS.

5. DPS overview

Scottish Procurement have established a DPS for 'Digital Technology Services' which replaces our DPS for Digital Services in March 2019.

This DPS is expected to run for a period of four years until February 2023. There are no time limit restrictions on a DPS and Scottish Procurement reserve the right to stop or extend the operation of the DPS at any time.

Call off contracts placed via the DPS will have no constraints on their duration therefore there will be no minimum/maximum call-off period.

6. What is a dynamic purchasing system (DPS)?

A DPS is an electronic process of pre-qualified suppliers, for commonly used purchases which are generally available on the market, from which the Scottish public sector could invite tenders. As a procurement tool, it has some aspects that are similar to a framework agreement, however, it is a fully electronic process and new suppliers can apply to join at any time.

7. How does a DPS operate

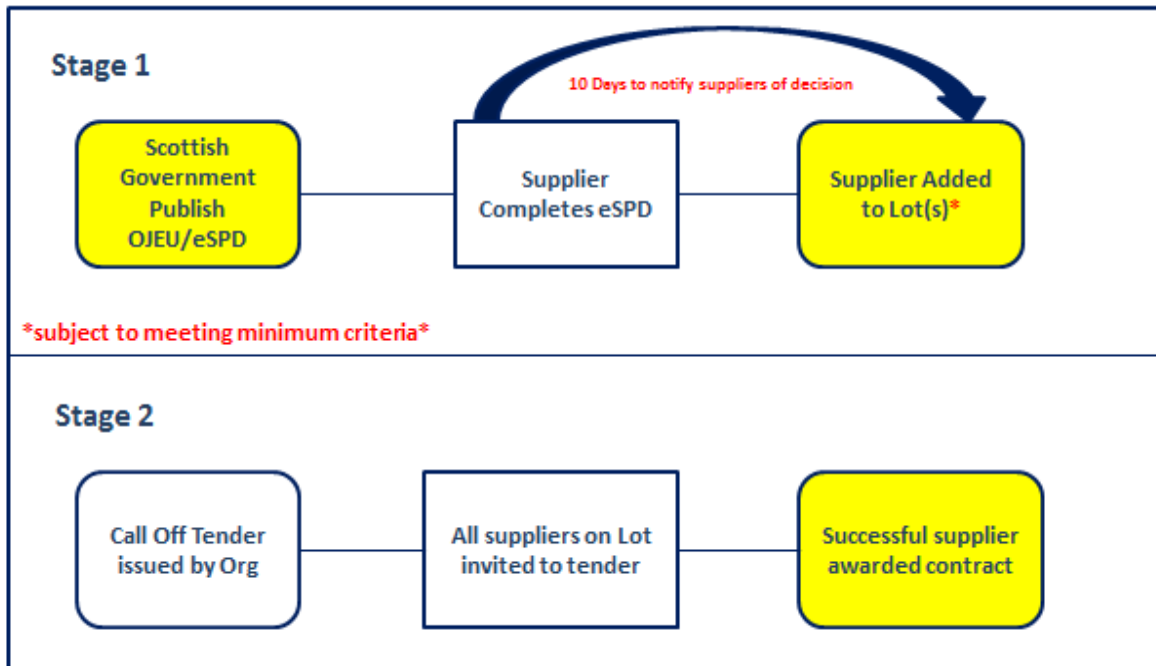
A DPS is a two stage process:

Supplier requests to participate by completing the European Single Procurement Document ESPD - suppliers are required to complete this and meet a minimum selection criteria.

Note: Stage 1 is completed by Scottish Procurement for the setup of the DPS and new suppliers can apply to join the DPS at any point during its term.

Call-off contracts are tendered via mini-competition through the DPS by public sector organisations and any eligible suppliers can bid for call-off contracts that are issued via the DPS.

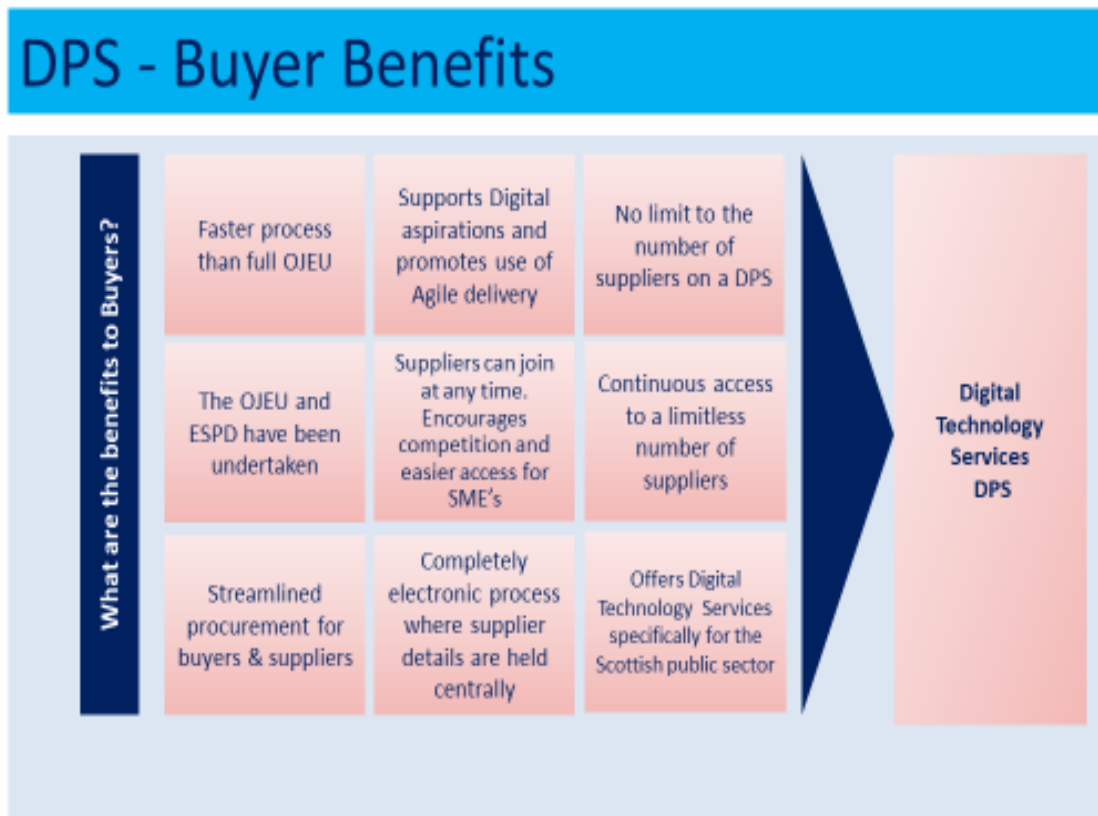
The diagram below offers a simple high level illustration of how the DPS operates.



- There is no maximum or minimum limit to the number of suppliers approved to each Lot.
- Suppliers have the option to join the DPS at any time.
- Suppliers may apply for 1 or any of the lots. Suppliers can also choose to apply for different lots at different times if they wish. For example, a supplier accepted to Lot 1 only can subsequently apply to join Lot 3 as their business expands.

8. Benefits

A DPS is an effective and efficient procurement procedure that can benefit both suppliers and buyers alike. Below are just some of the benefits you can expect to find when using the system:



9. Using the DPS for tenders

The DPS is for services commonly available on the market. It provides a list of pre-qualified suppliers that have met the minimum entry criteria. It is a simple route to market which will enable organisations to procure their Digital Technology Services without having to go through an onerous OJEU process, meaning buyers need only issue and evaluate their individual tenders.

When using a DPS you must give all participating suppliers, on your chosen Lot, the opportunity to respond to your call for competition (ITT). In our experience it is unlikely all suppliers will bid for all opportunities and they will 'self-select'.

However if you feel that there is a potential that a high (or low) number of bids will be received you may wish to consider some market analysis in the form of electronic engagement with the all the suppliers in the specific Lot. For example, you may wish to issue a project summary document highlighting the key aspects

of your requirement which will allow suppliers to review before the full ITT documentation is issued.

If you choose to issue this via the DPS area of the PCS-T system please clearly identify this as an 'Expression of Interest' (or similar wording) in the title to avoid confusion with actual ITT documentation.

You must ensure you include all suppliers in all communications in relation to your tender as the process you adopt must be fully transparent. Should you wish to proceed the regulations state that all suppliers must be invited to tender regardless.

Note: As the DPS is an 'open and running' system it is important you issue the ITT to any new suppliers added to the DPS between the dates of initial engagement and issuing your ITT documentation. It is important you do not create your ITT far ahead of your intended publication date.

10. Call for Competition

Scottish public sector bodies should develop their tender documents as they would for any tender, including how and when to respond, along with details of the evaluation criteria being used. Any responses received by the deadline should then be evaluated and the tenderer that offers the most economically advantageous tender should be awarded the call off contract.

You must give suppliers a minimum of 10 days to respond to any tenders issued via the DPS. However, buyers should take into account the complexity of their requirement when deciding the duration of tender submissions.

The award criteria must include both cost and quality of service. The weightings should be determined prior to the issue of the tender documents. Please note that the overall weightings must be within the following ranges:

Quality/Technical: 40-80%

Price: 20-60%

All DPS call off transactions must be carried out electronically.

To help buyers using the DPS, a project within Public Contracts Scotland – Tender (PCS-T) has been created specifically for buyers to issue call-offs on the DPS.

There is no need to undertake the two day PCS-T training course to gain access.

To request access email the DPS Manager: Alasdair.Rowan@gov.scot

If you do not already have a user account for PCS-Tender the DPS Manager will request one is created. You may be asked for a summary and value of your tender to assist with forward planning.

Once a user account is created you will be given access to the project associated with the lot you wish to use. You will be issued with a 'DPS call-off user guide' which outlines the process for creating an ITT along with other helpful information about the system functionality.

When you are running a call off contract you need to create the ITT from the DPS lot templates which contain the most up to date list of suppliers approved to the DPS. When you 'create from existing ITT' using the following codes:

- Lot 1 - ITT_29009
- Lot 2 - ITT_29011
- Lot 3 - ITT_29012

The system templates will always be live and up to date. The supplier list on the website will be updated monthly with new applicants.

Buyers should only request access to the projects when you have a tender requirement and are nearly ready to publish.

11. Terms and Conditions

Organisations may wish to use their own Terms and Conditions when calling off from the DPS. However, Scottish Government has provided two template sets of Terms and Conditions (T&Cs) on the Gov.Scot website that may be used with the DPS. SGTC2 covers small value, straightforward requirements and can be found here:

<https://www.gov.scot/publications/terms-and-conditions-for-scottish-government-contracts/>

There is also a more complex set of T&Cs called the Model ICT Services Contract.

The use of these T&Cs is not mandatory but have been created to assist you if you wish to consider them. It is for the buyer to review and consider if the T&Cs are suitable for the tender being issued (including seeking any legal advice as required).

Regardless, you should include the T&Cs being used along with your tender documents and subsequent call-off contract.

12. Awarding contracts

Contracts should be awarded in an open, fair and transparent manner at all times and you should ensure that winning contractor offers the Most Economically Advantageous Tender (MEAT). There is no obligation for you to undertake a standstill period.

In all regulated procurements i.e. those valued in excess of £50,000, including a DPS call-off, the Contracting Authority must publish an appropriate contract award notice.

Contract call-off award notices may be grouped on a quarterly basis. Grouped notices must be sent for publication within 30 days of the end of each quarter.

13. IR35: Off-Payroll Working

From 6 April 2017, there were changes to the rules governing off-payroll working in the public sector. Where the rules apply, people who work in the public sector through an intermediary, typically a personal service company (PSC) will pay employment taxes in a similar way to employees. For the purpose of this reform, a public authority is as defined for the purposes of the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002.

The IR35 legislation specifically challenges those people who supply their services to clients via their own company, often known as a 'personal service company' (PSC). In this case the service will be delivered via an intermediary which will be the supplier on the DPS.

Buyers must be aware of this legislation and advise DPS suppliers at call-off stage if the work being procured is in or out of scope. If you feel that IR35 may be applicable to the role you are procuring through the DPS please refer to the [Employment Status Indicator](#) (ESI) test as it should be completed in relevant cases - before you engage the suppliers. The test result can be shared with the supplier as evidence that the role is in scope.

If the role is in scope and is being delivered, via the DPS supplier, by a PSC (or equivalent) then the DPS supplier must be advised that they are liable for ensuring the relevant PAYE taxes are paid correctly. It is not the responsibility of the public sector body to pay this.

14. Frequently asked questions:

Who can use the DPS?

It is the responsibility of any buying organisation wishing to use the Dynamic Purchasing System to satisfy itself that it is eligible to do so. Entitlement can be established from the terms of the Official Journal of the European Union (OJEU) advert (OJEU reference number: 2018/S 245-561233. Section VI.3 of the advert:

https://www.publiccontractsscotland.gov.uk/search/show/search_view.aspx?ID=DEC340437

The Dynamic Purchasing System will be available for use by the Scottish Ministers (including agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish administration which are not ministerial offices, cross-border public authorities within the meaning of section 88(5) of the Scotland Act 1998, the

Scotland Office, the Scottish Parliamentary Corporate Body, councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994, Scottish Fire and Rescue Service, the Scottish Police Authority, Scottish health boards or special health boards, all NHS Scotland, The Integrated Joint Boards established further to the Public Bodies (Joint working) Act 2014, bodies registered as social landlords under the Housing (Scotland) Act 2001, Student Loans Company Limited, the Forestry Commission, the Commissioner of Northern Lighthouse operating as the Northern Lighthouse Board, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of section 6 of the Further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by one or more of the foregoing, bodies financed wholly or mainly by one or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the contracting authorities listed, the Dynamic Purchasing System framework will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the membership database of the Scottish Council for Voluntary Organisations.

Are the standard terms and conditions available on the DPS subject to Scots Law?

Yes – if you use the terms made available by Scottish Government they are subject to Scots Law. However if using your own terms and conditions, or in circumstances where you use the supplier terms, these will be subject to the specified legal jurisdiction in those terms.

Is there a process for providing feedback back into Scottish Procurement on issues relating to the DPS and the contractor's performance?

For any issues or feedback then please contact the DPS Manager:
Alasdair.Rowan@Gov.Scot

Does the DPS allow for community benefits?

'Community benefits' are social considerations which include not only targeted recruitment and training, but also equal opportunities, training for the existing workforce, supply chain initiatives, community consultation, 'considerate contractor' schemes, contributions to education, the promotion of social enterprises, and resources for community initiatives.

It is recommended that you include details of any community benefits you want to be delivered as part of the service - you should include these at tender stage of your call-off.

Does the DPS consider Fair Work?

For more information on Fair Work practices please see the Scottish Procurement Policy Note [SPPN 1/2015](#).

When establishing the DPS, Scottish Procurement sought details from Suppliers whether they intend to pay staff involved with the delivery of call-offs the [Real Living Wage](#).

Upon establishment of the DPS, Scottish Procurement positively encouraged Fair Work and the suppliers were notified that Fair Work practices may be included within call-offs. Buyers are encouraged to incorporate specific Fair Work practices within their individual call offs tailored to their local requirements.

Can the DPS be used for 'direct awards', perhaps for low-value contracts?

No. The procurement rules state that each requirement under a DPS must be competed and all suppliers within the relevant Lot must be invited to bid.

Does the standstill period apply to contracts under the DPS?

No. There is no obligation for individual contracts awarded under a DPS to include a standstill period. You may wish to consider a standstill for higher value/risk contracts in the interests of best practice and transparency.

Do I need to provide suppliers with a minimum time period to respond to tenders?

Yes. The minimum time period for receipt of tenders is 10 days from the date on which the call for competition was published. However, an appropriate timescale should be provided to allow suppliers a reasonable time to respond.

Does the DPS encourage SME access to public contracts?

The DPS does have some aspects that make it "SME friendly" and the vast majority of suppliers on the DPS are SMEs. Getting onto the DPS is less onerous for SMEs and the lot structure is designed to increase opportunity.

If there are a large number of suppliers on the DPS or specific Lot, how will we effectively resource and undertake competitions for individual contracts?

You may wish to issue a project summary document highlighting the key aspects of your requirement which will allow suppliers to review before the full ITT documentation is issued and gauge the market interest.

Should you choose to issue this via the DPS area of the PCS-T system please clearly identify this as an 'Expression of Interest' (or similar wording) in the title to avoid confusion with actual ITT documentation.

As the DPS is formed under the Restricted process you are not allowed to further reduce the number of candidates as they have already fulfilled the qualification part of the process.

You must ensure you include all suppliers in all communications in relation to your tender as the process you adopt must be fully transparent.

Do I need to provide a debrief to unsuccessful suppliers?

There is no requirement for a 'standstill' period under a DPS. However, you are not prohibited from either proactively providing feedback or offering to provide feedback on request which also can be seen as being good practice. Where you do provide or offer feedback you should treat all suppliers equally.

Is there any minimum/maximum durations to the contract call-offs and can contracts overhang the DPS period?

There is no minimum/maximum duration for the contract call-offs but the duration should be proportionate. As the 'new' procurement rules specifically allow 'overhang' in frameworks there is no reason to consider that proportionate overhang would be impermissible in DPS. As with all procedures, the DPS should not be used in a way which will distort or prevent competition.

Can I get Cyber Essentials (CE) (CE plus) certification for my organisation from Lot 3?

Details on Cyber Essentials is available from [cyberaware webpage](#).

There are suppliers on Lot 3 who can provide certification for CE. However, as the cost of basic CE certification is relatively low for small organisations then consideration needs to be given if a tender under the DPS is appropriate and proportionate versus other routes to market.

For a higher level of support/service and a supplier to help you prepare for CE and/or carry out remedial work for CE then Lot 3 is absolutely the right route and this could also be rolled up with gaining CE certification. You need to make it clear that you are looking for the successful supplier to also provide certification as part of the service delivery.

How do I issue calls for competition/ITT

Due to the number of suppliers on the DPS we recommend using PCS-T to conduct your mini-competition. The option to use PCS-T is now available to any buyer (even if you are not a current PCS-T user). There is no need to undertake additional training courses to access and support is available from the DPS Manager. A straightforward and easy to follow guide is available when you register to access this dedicated DPS area within PCS-T.

For access please contact: Alasdair.Rowan@Gov.scot