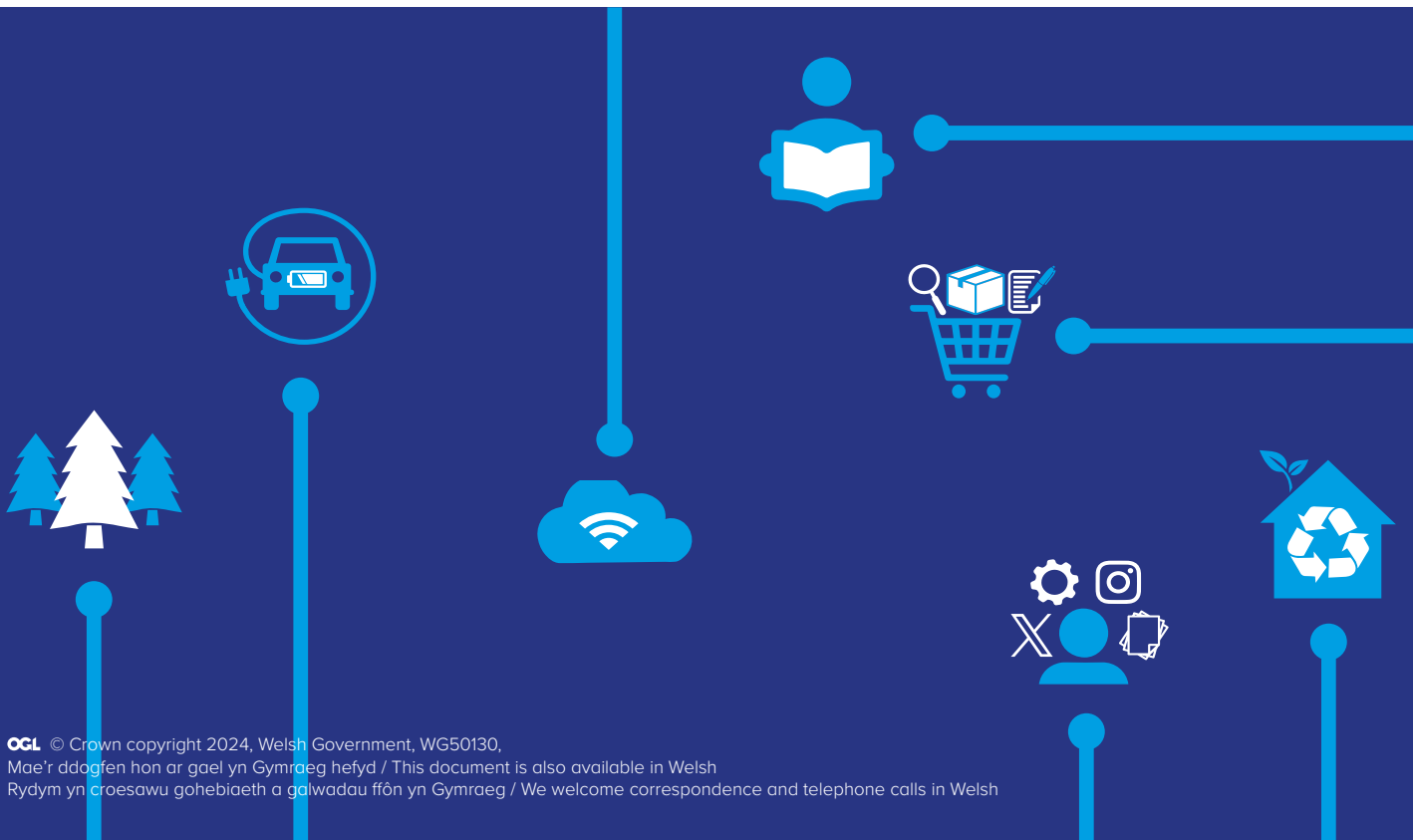




Llywodraeth Cymru
Welsh Government

Guidance Pipeline Notice

July 2024





Guidance: Pipeline Notice

What is a pipeline notice?

1. One of the most important things contracting authorities can do is to provide the market with information about current and future public contract opportunities by publishing a forward-looking procurement pipeline. The Procurement Act 2023 (the Act) achieves this by requiring the publication of pipeline notices in certain circumstances. This is of particular benefit to small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs) as it provides them with time to plan for future work, ensuring a competitive and diverse market.
2. A pipeline notice is “a notice setting out specified information about any public contract with an estimated value of more than £2 million in respect of which the contracting authority intends to publish a tender notice or transparency notice during the reporting period”. In other words, it is the collection of individual procurements that make up a contracting authority’s procurement pipeline over the next reporting period. The ‘reporting period’ is 18 months, commencing on the first day of the financial year in which the notice is published.
3. Private utilities are not required to publish a pipeline notice, but are encouraged to do so for the reasons outlined above.

What is the legal framework that governs pipeline notices?

4. The relevant provisions are section 93 and regulation 16.

What has changed?

5. The Act when read with the regulations make publication of a pipeline notice on the central digital platform a legal requirement in the circumstances set out in the Act.
6. The pipeline notice may form a subset of a contracting authority’s wider commercial pipeline which is used for internal planning. The new legal requirement to publish a pipeline notice does not replace any internal reporting requirements.



Key points and policy intent

7. Devolved Welsh authorities (DWAs) who consider they will, in the coming financial year, pay more than £100 million under relevant contracts are under the regulations required to publish a pipeline notice on the Welsh Digital Platform, Sell2Wales. Sell2Wales will subsequently forward the notice to the central digital platform, thereby fulfilling the legal requirement to publish a pipeline notice on the central digital platform in the circumstances set out in the Act.
8. For the purpose of calculating whether a contracting authority will exceed the £100 million threshold, the calculation must include all payments that will be made under contracts for the supply of goods, services or works other than exempted contracts ('relevant contracts'). This includes below-threshold contracts and the establishment of frameworks. The calculation will comprise payments due in the coming financial year under existing and future contracts. In the case of a framework, whilst a framework is a contract, the value of the framework itself is not taken into account. This is because payments will not be made under the framework itself, but instead will be made under each relevant contract awarded under the framework. Relevant contracts also include contracts awarded under frameworks and dynamic markets.
9. Whilst not required to do so under the Act, a centralised procurement authority that is planning to establish a framework for use by other contracting authorities that is valued over £2 million (based on the total value of the contracts to be awarded under the framework) should publish a pipeline notice in order to provide visibility to the market.
10. Note that the planned establishment of a dynamic market is not taken into account in calculating anticipated expenditure in the coming financial year for the purpose of determining whether a pipeline notice must be published (because a dynamic market is not a contract). However, a contracting authority establishing a dynamic market or intending to use one will need to include its planned spend under the dynamic market in the calculation. This spend includes only the contracting authority's own planned spend through dynamic markets, not the potential spend of any other users of the relevant dynamic markets. So, for example, if a contracting authority established a dynamic market for multiple contracting authorities in Wales to use and anticipated that it (alone) would pay £10 million under relevant contracts awarded under the dynamic market in the coming financial year, whilst other users of the dynamic market might pay a further £50 million under contracts awarded under the dynamic market, the contracting authority establishing the dynamic market would only take into account the £10 million when calculating whether the £100 million threshold is met. Other contracting authorities awarding contracts under the dynamic market



would include their share of that £50 million expenditure in their own calculations of spend.

11. The pipeline notice must be published within 56 days of the first day of the relevant financial year. Section 93(4) sets out that 'financial year' means:
 - a. the period of twelve months beginning with the 1 April following the day on which this section comes into force; and
 - b. each successive period of 12 months.

12. What this means is that the first procurement pipeline notice will need to be published within 56 days of April 1 2025, i.e. by 26th May 2025 and by 26th May in subsequent years.

Content of a pipeline notice

13. Regulation 16 sets out the information that must be published for each procurement contained in the pipeline notice.
14. The pipeline notice is a single notice providing details of all relevant contracts that an authority intends to award during the reporting period. Digitally, though, details will be entered in the central digital platform in relation to each individual procurement so that subsequent notices about that procurement can be linked to those details. This information will be collated and presented as a cohesive pipeline notice view for that contracting authority, enabling the viewer to easily see all the procurements making up the authority's pipeline notice.
15. The intention is that the Welsh Digital Platform (Sell2Wales) will allow the user to publish Pipeline Notices individually or by using a bulk upload feature.
16. If publishing directly onto the central digital platform, an authority will need to complete and publish details individually for each proposed public contract over the £2 million threshold. Regardless of the publication method used, all of the contracting authority's procurements forming the pipeline will still be presented together in a pipeline notice view on the system.
17. When completing the information, particularly the contract subject-matter, not all information is likely to be known at the point of publication of a pipeline notice and the expectation is that this information would be less detailed than any subsequent tender or transparency notice. Further information about what to consider when publishing pipeline information is included in the guidance on the central digital platform and publication of information.



18. While the Act requires the pipeline notice to be published within 56 days of the first day of the relevant financial year, there are likely to be circumstances where a contracting authority will identify additional requirements during the financial year. Whilst not a requirement of the legislation, contracting authorities are encouraged to review and update their pipeline notices throughout the year, adding new procurements above the £2 million threshold. These additional procurements will be collated and presented in the pipeline notice view with the rest of the contracting authority's upcoming procurements that have already been published in its pipeline notice.
19. Where an additional procurement above the £2 million threshold for inclusion in a pipeline notice is identified and the contracting authority considers that there is not enough time to publish an additional entry in their pipeline notice before commencing that new procurement, then the contracting authority is not required to include that procurement in its pipeline notice.
20. Contracting authorities are encouraged to go further than required by the Act by including in their pipeline notice:
- a. works contracts above £2 million but below the works threshold at the time of publication where the contracting authority intends to carry out a competitive tendering process. This also aligns with the £2m threshold for major construction contracts in the Social Partnership and Public Procurement (Wales) Act 2023, thereby emphasising the importance of publishing pipelines for works contracts valued above £2m;
 - b. contracts above £2 million where publication of a tender or transparency notice is not required, for example to alert the market where a contracting authority intends to award a call-off contract under a third party's framework through a competitive selection process and contracts awarded under certain types of utilities dynamic markets;
 - c. contracts below £2 million where the contracting authority is intending to advertise the opportunity as this can be particularly beneficial to SMEs;
 - d. relevant contracts to be awarded over a period that is longer than 18 months.
21. Contracting authorities who are uncertain as to whether the £100 million threshold will be reached in a given financial year are also encouraged to publish a pipeline notice. This could arise, for example, because a contracting authority may receive funding for several years and be unsure how that will be divided between the current and subsequent financial years.
22. Additionally, contracting authorities who are exempt from publishing pipeline notices may publish them voluntarily.



23. While a pipeline notice is intended to provide suppliers with an indication of a contracting authority's plans and expenditure for the following 18 months, this could change over time as plans for the procurements become clearer. Contracting authorities are not under any legal obligation to proceed with any procurement that has been specified in a pipeline notice. While there is no legal obligation to indicate that the procurement will not proceed, it would be good practice to provide visibility of such changes using the procurement termination notice on a voluntary basis.

What other guidance is of particular relevance to this topic area?

- Guidance on the central digital platform and publication of information
- Guidance on valuation of contracts
- Guidance on notice sequencing and flowcharts
- Guidance on the Welsh Digital Platform

