Introduction
1. The University of Dundee is a Higher Education institution with global reach in education and research. The University became an independent institution in 1967 following a 70 year relationship with the University of St Andrews. The University’s aim is to, “transform lives locally and globally through the creation, sharing and application of knowledge.”

2. The University of Dundee has a reputation as a centre for research excellence and is recognised as "one of the finest institutions in Britain where researchers routinely push back the boundaries of knowledge and teachers inspire their charges" (Sunday Times Good University Guide, 2008).

3. The University of Dundee has been named by the Institute for Scientific Information in Philadelphia as the most quoted university in Europe over the last 10 years, in life and medical sciences and first in the world for pharmacology. Dundee has also been named for five years running amongst the best places in Europe in which to work – The Scientist.

4. Over the last 15 years, Life sciences activity at the University has led to its current international position and Scotland’s leading research centre for Life Sciences. Today the School of Life Sciences, including the Wellcome Trust Biocentre, employs over 1000 scientists and support staff from more than 50 countries and is at the core of a biotechnology cluster that accounts for 16% of the local economy.

5. The University of Dundee supports the aims and ethos of the Bill yet retains concerns over how any such proposed Bill could impact on its ability to compete in the global market in which it currently sits.

This submission is to put forward the views of the University of Dundee in regard to the Procurement (Scotland) Reform Bill.

Further Information
6. The University of Dundee is concerned about continuing to be competitive in its global and UK markets, for both research and education and the pursuit of excellence in both. English universities are facing new funding arrangements that mean they will now be exempted from following EU public procurement directives. This will allow them to be more responsive to procurement requirements and will allow them to behave in a similar fashion to a private company which has less bureaucracy. This will lead to them achieving better value for money in less time which could impact on where funding bodies choose to award their funds to, leading to funding being reduced to Scottish higher and further education organisations.
7. Additionally, due to English institutions being able to behave in a more private sector oriented manner, they are likely to achieve lower costs due to their ability to negotiate post tender and there is evidence that suggests those organisations who currently are out of scope of the EU Directives save in the region of 10%.

8. The University of Dundee is a globally recognised centre of research excellence and is currently leading many collaborative ventures with other research partners in the public and private sectors. The requirements of this Bill could detrimentally affect the University’s ability to react quickly to the institution’s procurement requirements and could impact on achieved research milestones. Not only could existing deadlines be missed (due to research equipment not being bought and on site), which would lead to no further funding being released until milestones are achieved but the University could suffer funding losses due to funding bodies choosing to award their monies to organisations outside Scotland who can react quickly to the procurement challenges.

9. Furthermore, by its very nature, research activities can be highly sensitive and confidential. To be required to advertise contracts of this nature could lead to lost opportunity for the University of Dundee and other organisations and private sector companies seeing where the University is heading in its research and being able to capitalise on it before the University is able to. This could lead not only to a loss of funding but also to a loss of globally recognised personnel.

10. The University of Dundee would urge an exemption for all research related procurement activities because it is so vital to the continued economic future of the University.

Consultation

Did you take part in the Scottish Government consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?

11. The University participated through APUC and its Procurement Strategy Group - Universities

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

12. No, the Bill’s latest explanatory notes state that there will be no financial impacts on contracting authorities when in fact there will be significant negative impacts.

Did you have sufficient time to contribute to the consultation exercise?

13. Yes.

If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the FM? If not, please provide details.

14. No. I do not believe that the implications for University of Dundee have been accurately reflected. In order to comply, there will be increased burden placed on
existing staff resources which are already stretched. Winning approval for additional staff is difficult to obtain in the existing financial climate.

15. Winning authorisation for additional staff is difficult to obtain in the existing financial climate and the Bill places a £50,000 threshold on the University of Dundee. This is a significant burden as it will dramatically increase the number of procurements that would be in scope.

16. Additionally, applying the process to call-offs under existing frameworks will increase the workload on existing resources at the University of Dundee. Frameworks are used because they have already been properly tendered under EU procedures, thereby providing compliant mechanisms for achieving best value. The University of Dundee seeks to reduce duplication of effort and increase value for money, the Bill does not support this.

17. The University of Dundee is conscious of being competitive both in attracting students and in winning research income. The University of Dundee aims to continue being competitive however some of the requirements of this Bill could impact on that ability.

Do you consider that the estimated costs and savings set out in the FM and over the timescales for which they are projected are reasonable and accurate?

18. No, the University of Dundee does not believe that the significant costs that will be incurred by the University of Dundee (and other contracting authorities) has been recognised and would suggest that the savings have been overestimated.

19. There is an assumption that suppliers will be able to create one Pre-Qualification Questionnaire (PQQ) and use it forevermore regardless of what the tender is for or who the contracting authority is. When the University of Dundee uses a PQQ it is to identify capable suppliers for a specific requirement and therefore each one will have very specific questions depending on the nature of the goods, services or works. Although there may be a small number of generic relevant questions, there is no standard PQQ, nor standard PQQ response. If the University of Dundee is forced to use a standard PQQ, it will negatively affect the University’s ability to properly shortlist capable suppliers. There is a danger that suppliers without the technical capability will go through to tender stage which will cost them in terms of time, resources and outlays without any prospect of winning contracts.

20. Additionally, the University of Dundee would be required to evaluate larger numbers of tenders for each requirement, a drain on existing resources and potentially leading to an need for increased staffing, a cost to the business.

21. The University of Dundee would be concerned about how supplier markets may react to public sector tenders if, from a generic PQQ, they themselves are unable to identify what they might be able to have a serious chance of winning.
If relevant, are you content that your organisation can meet any financial costs it is expected to incur as a result of the Bill? If not, how do you think these costs should be met?

22. No, I do not believe the University of Dundee is in a position to incur additional costs due to proposed legislative changes required under this Bill. The University’s budget is restricted at present and shortfalls in income are having an impact. Due to the requirements of the Bill there will be additional staffing resources required and these are not in existing budgets. If additional funding could be secured to cover the procedures required in the Bill, I would be concerned that additional funding is being spent on such measures rather than being directed to research and teaching.

23. If the Bill brings in these requirements for the University of Dundee, knowing increased costs will be associated, perhaps an increase in funding from SFC to cover these costs should be considered.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

24. No

Wider Issues / Impacts
Do you believe that the FM reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

25. No. Other costs that might be incurred are:

- Economic impacts: the University of Dundee, as will all other contracting authorities, will be required to consider the economic, social and environmental well-being of the local area. Whilst this is to be commended and CSR and engagement with SMEs is included within procurement procedures, the University of Dundee is not in existence to provide social care and community activities to the extent or range as is carried out by the NHS and local authorities. The University of Dundee is in the business of research and teaching excellence and an overly onerous requirement which brings increased bureaucracy and could negatively impact on the procurement function of the University being able to react quickly and proactively to changes in requirements, technology, direction of research, etc. All of which affect the University’s ability to deliver the services required of research excellence and teaching excellence.

- Section 11.5 - Payments to suppliers: the University of Dundee currently has 30 day terms as standard however, there are instances where terms are offered that extend this and this is a benefit that the University should be able to take advantage of. Similarly, if the University wishes to take advantage of preferential terms being offered for prompt payment within, eg, 10 days then it will do as it is best value for money. Often the University of Dundee receives funding that is paid in arrears after expenditure has been incurred therefore there could be an impact on cashflow.
• Sections 17 and 18 – Public Contracts Scotland is currently used extensively by the University of Dundee, both for notices and quick quotes. However, the University, through APUC, participates in UK wide consortia HE contracts and this provides benefits in terms of better pricing due to increased collaborative spend to be leveraged and more favourable terms for HE, I am unclear on how this type of beneficial contracting activity would be affected. This again raises the question of the University of Dundee and other Scottish higher and further education institutions being at a disadvantage in comparison with rest of UK higher education. All of which affects our ability to be competitive in this market and to maintain excellence in research and education.

• Section 27 – Debriefs are currently offered to all suppliers who wish further information on the quality of their bid and the outcome of the tender by the University of Dundee. This is subsequent to comprehensive information being provided in writing. I would argue that the current system already works and there are sufficient legislative arms that ensure suppliers and any interested parties can acquire information regarding contracts.

• Section 30 – The requirement to Publish Contract Registers will need staff resources to ensure this is up to date. The requirement to publish an award notice for every call-off is just one example of where additional resources will be required and this would be an additional burden to the University of Dundee.

• Sections 32 – 34 Remedies (sections 32-34) – it would appear that these sections seek to enable suppliers to prevent a procurement process from continuing or an award from being concluded. Existing legislation is in place to allow suppliers to challenge suspect procurements and Courts have the power to stop processes and award damages where cases are upheld. It would be unfortunate if these sections were relied upon by existing suppliers to prevent a change and ensure their continued supply to contracting authorities even though they may no longer be best value.

26. The Bill appears to be aiming to include SMEs in public sector procurement yet Scotland is one of the leading countries in the developed world in terms of SME inclusion and contract award in public procurement, with the HE/FE sector already providing a leading role in this.

_Do you believe that there might be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?_

27. Yes, I do believe there might be future costs however, at this stage it is difficult to quantify. Points covered above concerning additional staffing resources required to ensure procedures under the Bill are adhered to are one thing. It is likely that where additional resources cannot be afforded, that procurements will slow significantly, as the work processes for each procurement increases. This is likely to lead to fewer contracts being awarded which for the University of Dundee could mean missing out on research grants because we cannot act quickly enough – money will go elsewhere and is likely to go outside Scotland. Once suppliers notice
drops in contract awards and money spent, it is likely that there will be a reaction from the supplier community in addition to reactions from contracting authorities that will require subsequent legislation and all of its associated costs.

28. Of major concern is the prospect that UK and global funders will award research grants to institutions other than those located in Scotland, including the University of Dundee. Reductions in income could detrimentally affect the University’s ability to compete on a global scale, as it does currently. The concern would be if income falls below levels adequate to allow that continued competition.

Conclusion
29. The University of Dundee currently complies with the European legislative requirements on public procurement and with the changes shortly to come through in the EU legislation, the University of Dundee was seeking to shorten any gap that will exist when the English universities become out of scope for the EU directives on public procurement yet this Bill will further this gap due to the procedures being demanded through the Bill.

30. The University of Dundee is not entirely funded by public sources in the same way that other public sectors are and whilst it would argue that given its funding model it should be outside of the Bill’s scope, together with the rest of higher and further education, it would strongly suggest that, particularly in relation to research related activities that these be exempted from the Bill.

31. As mentioned above, the University of Dundee is concerned about losing its place as a competitive global organisation involved in excellence in research and teaching. It is likely that existing competitors outside Scotland, particularly in the rest of the UK will be the winners from a Bill that increases the cost of procurement and length of time necessary to complete contract awards.