



Comhairle Contae **Lú**
Louth County Council

Procurement Policies, Rules and Procedures 2022 - 2024

	Procurement Policies, Rules and Procedures 2022-2024		Ref. No.:	P/POL-001
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Louth County Council is committed to the procurement of supplies, services and works in the most efficient and effective manner to achieve value for money whilst delivering high-quality, citizen-focused, responsive and effective services to the people of County Louth. Compliance with Government Guidelines and applicable EU procurement legislation is at the forefront of what we do to meet this end.

This document has been compiled by Louth County Council outlining the procurement policies and procedures at the Council. The official controlled version of this manual is held within the network server/ intranet and is visible to all users. All printed copies and all electronic versions, except the ones described above, are considered uncontrolled copies. Documents referenced in this manual are available via a link in this document and either held within the network server/ intranet or on the official websites.

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Introduction

EU and Irish public procurement rules govern the purchasing of goods, services and works by public bodies and utilities in Ireland. These rules exist to maximize competition for public contracts, theoretically enabling public bodies to obtain the best quality products, works or services at the best price, whilst at the same time ensuring compliance with the law. The basic principles underpinning both the EU and Irish Public Procurement regimes are equality of treatment, transparency and observance of fair procedures. In other words, all bidders must be treated in an open, fair and non-discriminatory manner.

Public Procurement Law in Ireland has its basis in EU Law, and the EU Directive applicable is EU Directive 2014/24/EU. The directive has been transposed into Irish Law by the enactment of S.I 284 of 2016, referred to as “The European Union (Award of Public Authorities Contracts) Regulations, 2016.

Article 4 of the Directive defines public procurement as follows:

*The acquisition by means of a **public contract of works, supplies and services**, by one or more **contracting authorities** from economic operators chosen by those contracting authorities whether or not the works, supplies or services are intended for a public purpose.*

Purpose and Scope

This document articulates Louth County Councils Procurement Policy and Procedures, and provides an update to the first policy document published in 2016. The revised document includes references to recent procurement guidelines and circulars that have been introduced since the first publication in 2016.

The purpose of this document is to serve as a guide to all employees of Louth County Council who are involved in the procurement process. The policies and procurement processes contained herein are also to be used as a guide for third party consultants or contractors who have been engaged by the council to act on their behalf when conducting a procurement process. The document sets out the governing principles of best practise in public procurement, and outlines the regulatory framework under which the public procurement activities must operate.

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Objectives

Procurement in Louth County Council is a devolved function, where individual departments are responsible for ensuring their sourcing requirements are met while operating in accordance with best practise and compliance with the relevant legislative, regulatory and policy requirements of the Public Procurement Regime. In addition to respective departments and personnel understanding the rules and processes defined within this document, all employees conducting a procurement process should familiarise themselves with relevant legislation, circulars and national guidelines in respect of public procurement, and which are available from the sources outlined in the table below.

Table 1: Sources of Public Procurement Rules

Source	Platform	Website
OGP	Office of Government Procurement	www.ogp.gov.ie
CWMF	Capital Works Management Framework	https://constructionprocurement.gov.ie/
SupplyGov	SupplyGov Procurement Platform	https://supplygov.ie/
eTenders	Electronic Tendering Platform	www.etenders.gov.ie
PSC	Public Spending Code	www.gov.ie/en/publication/public-spending-code

The primary objectives of Louth County Council Procurement Policy and Procedures are: -

- To ensure compliance with all relevant European and National legislation, Government Regulations, and local and national public procurement guidelines
- To ensure that the Council operates in a fair, transparent and non-discriminatory manner in all its purchasing transactions
- To ensure that optimum quality, service and Value for money (VFM) are achieved across all purchasing expenditure
- To ensure our documents and procedures are robust, taking into account best practise and National Guidelines on procurement
- To promote a competitive tendering environment

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This document is divided into six sections as follows:

- Section 1.0 Policy and Key Principles
- Section 2.0 Public Procurement Rules
- Section 3.0 Public Procurement Process
- Section 4.0 Table of Acronyms
- Section 5.0 List of Tables and Figures
- Section 6.0 Appendix List and Appendices (which include best practise documents, templates, procedures etc.)

It is intended that this document will provide a baseline for procurement policy in Louth County Council going forward, and any new policies, circulars or guidelines will be included as revisions and the document updated accordingly.

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SECTION 1.0

POLICY AND KEY PRINCIPLES

1.0 Policy

Louth County Council is committed to complying with Government Guidelines and all relevant EU procurement legislation in the procurement of supplies, services and works in order to achieve value for money whilst delivering high-quality, citizen-focused, responsive and effective services to the people of County Louth.

Green criteria will be incorporated into the procurement of goods and services at Louth County Council to facilitate climate adaptation. Life-Cycle Analysis (LCA) and Life-Cycle Costing (LCC) are at the heart of GPP, requiring buyers to consider the total economic and environmental cost over the life of a given product / service / solution.

1.1 Public Procurement Key Principles

The key principles that apply throughout a procurement process which underpin Procurement Legislation, and which in turn inform National Guidelines are detailed below. Compliance with these principles is fundamental to ensuring that the conduct of a procurement process is both lawful and compliant.

- Transparency
- Equal Treatment
- Proportionality
- Non-discrimination / Mutual Recognition

Further explanations on how these principles are applied during a procurement process are included in Section 2.2.

1.2 Regulatory Framework

Louth County Councils Procurement Policies and Procedures are governed by European and National legislation, National Guidelines, DPER Circulars, Public Spending Code Rules, best practise guidelines and Relevant Case Law.

Key documents and publications include:

- EU Directive 2014/24/EU also referred to as Public Sector Directive which was transposed into Irish Law by the European Union (Award of Public Authority Contracts) Regulations 2016, also referred to as the 2016 Regulations. (NB: there are similar directives and regulations that apply for the Utilities sector and to works and service concessions, and staff should refer to these documents when conducting procurement processes in these sectors)

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- Public Procurement Guidelines for Goods and Services, Volume 2: Issued January 2019
- Capital Works Management Framework (CMWF), provides policy and guidance relating to works and works related services
- Circulars - written statements of government policy. These are discussed on detail in Section 2.3 below.

All EU Directives/National Legislation and Policies governing Public Sector procurement in Ireland can be accessed on the national procurement websites as outlined in Table 1.

Further details on the Regulatory Framework and when it applies can be found in Section 2.0 “Public Procurement Rules”

1.3 Contracting Authority – Louth County Council

When conducting a procurement procedure, the responsibility for compliance with EU Directives, National Legislation/Guidelines/Circulars and Louth County Council Policies and Procedures, rests with all employees who are conducting the process. A procurement manager should be appointed for significant procurement processes who will oversee the process and ensure that it is conducted in accordance with the policies stated herein.

The procurement manager should be appointed by the relevant section to coordinate all aspects of the procurement process for the project. Overall responsibility for the project, including procurement aspects of the project will remain with the project manager.

A significant procurement process is generally considered to be at national levels but can be deemed to be lower at the discretion of the section.

Confirmation on compliance is required from all sections within Louth County Council and this will be managed through annual auditing of procurement procedures, and reporting on findings to the Chief Executive. Appendix 1 sets out approval levels for associated staff grade and authorisation thresholds.

Prior to embarking on a procurement procedure staff should establish if an opportunity exists to utilise a central procurement framework from the OGP or LGOPC (SupplyGov). If no central purchasing framework exists, then staff should proceed to conduct the procurement process in accordance with the policy stated herein. Where staff fails to utilise existing National frameworks then they should be in a position to provide a value for money justification.

Figure 5, 6 and 7 included at the end of Section 3, outline the steps and procedures to be followed under this policy when procuring Goods or Supplies, General Services, Works Contracts, and Works Related Services. All procurement processes above the EU threshold should comply with the 2016 Regulations.

In summary, Louth County Policy requires a formal tendering procedure when procuring contracts for goods and services with an estimated value greater than €25,000 excluding VAT, and €50,000 excluding VAT for works contracts or works-related services.

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For goods and services contracts with an estimated value up to €25,000 excluding VAT, and works and works-related services contracts up to €50,000 excluding VAT, the request for quotation (RFQ) procedure can be used which permits suppliers and contractors submit quotations/tenders by email or letter to the procurement manager, project manager, co-ordinator or budget holder. 3 quotes must be obtained for Goods and Services, whereas 5 prices/tenders must be obtained for works and works-related services contracts for these lower value contracts. Appendix 11 provides an overview of this process.

Specific legislation governs procurement above the EU threshold.

1.4 Business Engagement

All staff undertaking a procurement process should ensure that the tender documentation is complete, relevant and proportionate to the need. Public sector tendering documentation has been widely criticised for being too complex and difficult to follow, and perhaps not proportionate to the scope and value of the project. In many cases this arises out of lengthy standardised template documents for larger projects being “cut and paste” into smaller projects. Staff should ensure that the tender documentation including suitability, qualifying and award criteria are relevant and the information sought is proportionate for the procurement process. Staff should be cognisant of requirements of DPER Circular 10/14: “Initiatives to assist SMEs in Public Procurement” in this regard.

1.5 On-line Portals eTenders and SupplyGov

The eTenders procurement website (www.etenders.gov.ie) has been developed as part of the Irish Government’s strategy for the implementation of eProcurement in the Irish Public Sector. The site is designed to be a central repository for all public sector contracting authorities to advertise procurement opportunities and award notices.

Where Central Frameworks or other collaborative tendering opportunities are not utilised, Louth County Council must advertise all other tender competitions on the eTenders website, when seeking Goods or Services contracts exceeding €25,000, and/or Works and Works-Related Services contracts exceeding €50,000.

It is a legal requirement under the 2016 Regulations to advertise tenders on the Official Journal of the European Union (OJEU) when contracts are estimated to exceed the EU thresholds or have a “cross border” (trans European) interest, irrespective of the contract value. The eTenders platform has the functionality to facilitate this.

At Local Government Sector level, the LGOPC (Local Government Operational Procurement) operates the SupplyGov.ie procurement system and leads on two categories

- i. Minor Works
- ii. Plant Hire

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In accordance with Circular DPER Circular 10/14, supplier registration is encouraged on both eTenders and SupplyGov.

1.6 Collaborative Procurement and Central Frameworks

Louth County Council procurement staff should coordinate the procurement requirements across the organisation and aggregate (taking advantage of economies of scale) where possible, in order to achieve value for money. Louth County Council will utilise the central frameworks, in compliance with DPER Circular 16/2013, at National or Sectoral level where value for money or savings in staff resources can be demonstrated. National Frameworks must be entered into through the “Notification to Activate” forms which should be activated by the Director of Service.

A notice to activate goods or services form is usually referred to as variously:

- NAGF (Notification to Activate Goods Framework)
- NASF (Notification to Activate Services Framework)
- NAGSF (Notification to Activate Goods and Services Framework)

The NAGSFs are used to in direct drawdown frameworks or OGP Tier2 frameworks. The drawdown can be immediate but requires the contracting authority to first sign and have counter signed the form. Only the contracting parties need hold a copy of the form. The NAGSF and the RFT from the framework constitute the contract.

Depending on the framework, the NAGSFs are available for download on the framework landing page or from the supplier and user guide instructions are provided.

If a contract or framework agreement has been awarded on an organisation-wide basis in any category, following a national tender process (e.g. the procurement of PPE), all Departments shall place orders for such goods and services with that supplier only. Where exceptional circumstances preclude the use of the existing contract or framework, orders placed with an alternative supplier other than the designated supplier must have written approval from the appropriate Director.

1.7 Procurement Ethics

Public Procurement Rules also serve as a mechanism to promote ethics and accountability in purchasing decisions. This rationale underlies the role of the Department of Expenditure and Public Reform which has published specific guidelines and circulars which local authorities must comply with, for e.g. the Public Spending Code Rules.

All staff members involved in procurement activities, act as agents of the Council and are bound to act in accordance with the Public Office Acts 1995 and 2001, and those staff who

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occupy designated positions have a statutory obligation to furnish an Annual Statement of Interests.

Separately to this requirement, the 2016 Regulations obliges Louth County Council to take appropriate measures to prevent and identify and remedy Conflicts of Interest in the conduct of a procurement procedure by relevant staff members, to avoid any distortion of competition and to ensure equal treatment of tenderers. The regulations define a relevant staff member as a staff member of a contracting authority or a procurement service provider acting for the contracting authority. To comply with the regulations, the policy requires all staff and third-party contractors engaged in the procurement process (either at the outset or at evaluation stage), to complete a Conflict of Interest and Confidentiality Agreement detailed in Appendix 3. Further information on Conflict of Interest requirements is contained in section 3.5 Evaluation of Tenders.

1.7.1 General Data Protection Regulation (GDPR)

Compliance with the provisions of the GDPR Regulations is the responsibility of each contracting authority. The implications of existing and future contracts for public procurement must be considered. The OGP have an Information Note setting out general guidance on how contracting authorities can adapt existing contracts based on the OGP template documents and prepare future contracts, based on the OGP template documents, to comply with certain key provisions of the GDPR.

Given the range of different scenarios which may apply under data protection law it is not possible to provide guidance for all cases. In addition, the Information Note does not apply to contracts entered into on a contractor's own terms and conditions or which do not incorporate the standard OGP template terms. A different approach will be required for these contracts. Where there is any doubt about whether the general approach in this Information Note is suitable for the contract in question, or where a contract has not been based on an OGP template, the contracting authority should consult with its legal advisor or Data Protection Officer.

The OGP recommends that contracting authorities review all of their existing contracts to identify those contracts where personal data is being processed by the contractor. If the contract does not involve the processing of any personal data by the contractor, then no further action is required.

If the contractor is processing personal data, action is required along the lines as set out below.

- i. Consider issuing directions where appropriate for existing contracts: Where a contracting authority is using an OGP template for a goods or services contract, or an OGP FWA, it is entitled to issue directions to contractors which could be used to meet the requirements of the GDPR. If a contracting authority is not using an OGP template or an OGP framework a different approach will be required for these contracts and they should seek separate legal advice

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- ii. Use revised OGP templates for all new contracts going forward: where a contracting authority uses OGP template documents for any future contracts, the revised templates which incorporate the GDPR related amendments should be used where the contractor is acting as a “Data Processor” on behalf of the contracting authority. Where a contracting authority considers that the contractor is or might be a data controller in its own right or a joint data controller with the contracting authority, the new Data Protection and Security clauses either will not be suitable or may need to be adapted. When a contracting authority is not using OGP template documents for any future contracts they need to ensure that those contracts comply with the GDPR.

Further information is available in the OGP Information Note:

<https://www.gov.ie/en/publication/bc3d7-information-note-general-data-protection-regulation-gdpr-may-2018/>

1.8 Senior Management

It is the responsibility of each Director of Service to ensure that Public Procurement obligations and procedures set out in Louth County Councils Policy, Rules and Procedures Manual are complied with, in their area of responsibility.

All staff undertaking procurement activities are required to ensure that their activities are conducted in a manner that is compliant with public procurement obligations and the procedures and practices set out in the Louth County Councils Policy, Rules and Procedures Manual.

In order to provide proof of compliance in the procurement process and for future auditing purposes, each department should record and document the procurement steps and procedures followed and save all records to the procurement network folder. Further requirements on retention of records are detailed in 1.11 and 3.7.2.

1.9 Procurement Steering Committee Group

The Procurement Steering Committee Group is chaired by the Financial/Management Accountant. The core group comprises the Procurement Officer, Senior Management Staff at Grade 8 level and analogous and Grade 7 staff who manage and conduct procurement processes throughout the organisation. Other staff members may be invited to join the group from time-to-time by one of the core members. All budget holders are responsible for proper control, management and spend of budgets allocated to them.

The Procurement Steering Committee meets every two months and will act as a forum for discussion on procurement matters between the procurement office and the respective directorates and departments throughout Louth County Council. Discussions will focus on

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compliance with European and National Law, National Guidelines and on achieving value for money.

The Procurement Steering Committee meeting has responsibility for: -

- Reviewing the operation of Louth County Councils procurement policies and procedures and making recommendations on required amendments or revisions, so that the county council's procurement activities are conducted in an open, transparent and non-discriminatory manner with the highest levels of compliance, probity and risk awareness. Recommendations proceed to SMT for SMT and CE approval before implementation.
- To have consideration of the external auditors reports on procurement and implement recommendations or corrective actions on same, to ensure compliance, and proper governance structures are adhered to, so that value of money can be achieved throughout the organisation
- To assist with the completion of annual procurement reports to ensure the Council's obligations are met under the public spending code, and in the preparation of the annual procurement plans
- In conjunction with the Head of Finance, ensure that the register of those with authority to initiate procurement procedure, approve contract awards, sign orders or formal contracts, and settle contract disputes along with their approved nominated delegates are kept up to date.
- Ensuring the central contracts register, which includes all procurement procedures greater than €25,000 throughout the local authority, is kept up to date and the procurement office notified of all information pertaining to a particular procurement procedure
- Dealing with any cross authority procurement issues that require attention

1.10 Role of Procurement Office

Procurement procedures are decentralised in Louth County Council and each department is responsible for operating their own procurement procedures and ensuring compliance with Louth County Councils Policies and Procedures, National Guidelines and legislation.

In order to ensure compliance within the organisation, a Procurement Section has been established within the Finance Department to coordinate all procurement activities. This dedicated procurement section has been set up to provide procurement support and offer advice to the various sections undertaking procurement.

The role of the Procurement Office is: -

- Maintaining a Central Contracts Register of all tenders advertised in excess of €25k
- Developing Procurement Policy and Procedures
- Developing a Procurement Steering Committee of Senior Representatives from each department/section within Louth County Council

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- Promoting best practise in the procurement process across the organisation and coordinating changes through the Procurement Steering Committee
- Ensuring compliance with public procurement requirements
- Offering advice on general queries and online purchasing systems
- Preparation and distribution of annual reporting requirements
- Assisting with post tendering evaluations

1.11 Document Control

A system for Document Control has been established by the Procurement Office and provides a centralised document control system, which includes Contract Information for all contracts including; goods/services, works and works related contracts over €25,000.

The document control system includes a contracts register which includes information pertaining to the procurement procedure, and includes but not limited to; type of tender process, and advertising date of tenders, closing date for return of tenders, value of tender etc., for contracts across all departments, in excess of €25,000. In addition, the Procurement Office has established a Procurement network folder, where documentation and records pertaining to a procurement procedure are stored.

Maintaining an up to date Contracts Register and Network Folder for Procurement Documentation and Records is essential to assist the Procurement Office in forward planning, and exercising appropriate internal control of procurement procedures. The maintenance of an up to date Document Control System is vital to ensure the timely publication of relevant details when required by internal or external audit.

All sections are required to notify the Procurement Office before commencing a procurement procedure, so that the details of the Procurement Procedure can be updated onto the Contracts Register. On completing the Procurement Procedure, all Sections should then store the procurement documents onto the Procurement Network Folder, for future reference and providing proof compliance and transparency in the process.

1.12 Environmental and Social Considerations in Public Procurement

Circular 20/2019 “Promoting the Use of Environmental and Social Considerations”, advises on the wider use and implementation strategy for the use of social considerations in public procurement taking cognisance of the Climate Action Plan 2019. (www.dccae.gov.ie/en-ie/climate-action/Pages/default.aspx)

Specifically, the circular instructs National Departments to consider including green criteria in public procurement processes in the following circumstances where:

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- Clearly defined, quantifiable, verifiable and measureable criteria have been developed by the Department of Communications, Climate Action and Environment and are relevant to the specific procurement process: and
- The costs can be met within a department's existing budget without impacting on service delivery.

In this context the Government has decided that proposals on the implementation of Green Public Procurement (GPP) will be developed by the Department of Communications, Climate Action and Environment and the OGP. Louth County Council have committed to the promotion of sustainable energy initiatives and have made significant progress in this area for e.g. through the purchase of electric vehicles and the retrofitting of its Public Lighting infrastructure. Louth County Council staff and procurement managers should continue to source goods, services or works with a reduced environmental impact where appropriate.

Procurement can also be used to promote social considerations for e.g. employment and training opportunities for disadvantaged groups, disability access, promoting social inclusion and social enterprises, and the protection of the environment. The OGP has provided further guidance on this issue and can assist and advise on the appropriate use of social considerations in public contracts.

1.12.1 Green Public Procurement (GPP) at Louth County Council

GPP is defined as:

"A process whereby public and semi-public authorities meet their needs for goods, services, works and utilities by choosing solutions that have a reduced impact on the environment throughout their life-cycle, as compared to alternative products/solutions." (Environmental Protection Agency, 2021)

The concepts of Life-Cycle Analysis (LCA) and Life-Cycle Costing (LCC) are at the heart of GPP. They require buyers and suppliers to consider not just the up-front purchase costs of a given solution, but its total economic and environmental cost from cradle to grave or cradle to cradle. (Environmental Protection Agency, 2021)

In 2017 the Commission published a document entitled *Public Procurement for a Circular Economy: Good Practice and Guidance* which explains the concept as follows:

"Circular public procurement is an approach to greening procurement which recognises the role that public authorities can play in supporting the transition towards a circular economy. Circular procurement can be defined as the process by which public authorities purchase works, goods or services that seek to contribute to closed energy and material loops within supply chains, whilst minimising, and in the best case avoiding, negative environmental impacts and waste creation across their whole life-cycle."

In 2020 the Commission published a new *Circular Economy Action Plan* as part of the EU Green Deal. This sets out specific measures to make production and consumption more sustainable, with a particular focus on resource-intense sectors such as textiles, construction, electronics

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and plastics. The Commission will propose minimum mandatory GPP criteria and targets in sectoral legislation and phase in compulsory reporting to monitor the uptake of GPP (without creating unjustified administrative burdens for public buyers). (Environmental Protection Agency, 2021)

Louth County Council is fully committed to delivering climate change adaptation and mitigation actions to support carbon reduction and climate resilience across the county, thus contributing to climate change regionally, nationally and globally.

Adaptation seeks to respond to the impacts of climate change. Green Public Procurement (GPP) is one such adaptation measure being implemented by Louth County Council to effectively respond to the threats posed by climate change.

Green criteria will be incorporated into the procurement of goods and services at Louth County Council to facilitate climate adaptation. Life-Cycle Analysis (LCA) and Life-Cycle Costing (LCC) are at the heart of GPP, requiring buyers to consider the total economic and environmental cost over the life of a given product / solution.

GPP is a requirement for Louth County Council and must be incorporated into tender documentation. It must be borne in mind that there is not a one-size-fits-all approach and as per Circular 20/2019, the appropriateness of including environmental measures in public procurement projects will vary from contract-to-contract and is primarily a matter for individual contracting authorities. In keeping with the commitments made by Louth County Councils Climate Action Charter, and at a minimum:

- suppliers will be asked as part of the procurement process to provide information on their carbon footprint and on the sustainability practices and steps they plan to reduce its impact
- green public procurement strategies and procedures will be implemented across all business areas

GPP will continue to respect the basic principles of equal treatment, mutual recognition, transparency and proportionality as set out in the EU Treaties.

Louth County Council is committed to ensuring compliance with mandatory environmental legislation as well as International, European and National strategies and policies on climate action during the procurement process, and will embed a proactive climate change culture into the procurement of products and solutions.

1.13 BREXIT

The UK left the European Union on 31st January 2020 after both sides had concluded a Withdrawal Agreement, including the Protocol on Ireland / Northern Ireland. The transition period provided for in the Withdrawal Agreement ended on 31st December 2020. On account of the Protocol on Ireland / Northern Ireland, no new checks or controls apply to goods moving between Ireland (or the rest of the EU) and Northern Ireland in either direction. [Information Note Brexit and Public Procurement Update July 2021]

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The UK now lies outside the EU Single Market and the EU Customs Union. Its' interaction with the EU is now governed, in the main, by the terms of the EU-UK Trade and Cooperation Agreement (TCA), which was agreed just before Christmas 2020 and has since been formally ratified by the EU and the UK. [Ref: <https://www.gov.ie/en/collection/58451-brexite-information-notes/>]

The UK is now considered to be a third country subject to the agreements contained in the TCA. Reciprocal treatment and access for companies to procurement opportunities in the relevant jurisdictions for above and below-threshold procurements is provided for.

Tenderers from third countries, now including the UK, may continue to submit tenders for public contracts but the onus for proof of compliance with EU rules and regulations should be placed on such tenderers. Particular scrutiny should be applied to UK-based providers in relation to:

Standards – including qualifications and certification. Products imported from the UK to the EU must comply with EU technical regulations and are subject to all applicable regulatory compliance obligations, checks and controls for safety, health and other public policy purposes. Public bodies are encouraged to continue to place the onus of proof of compliance with the provider.

Logistics – including barriers to trade and trade movements. Under the Protocol on Ireland/Northern Ireland, no checks or controls apply to goods moving between Ireland (and the rest of the EU) and Northern Ireland in either direction. However, additional undertakings relating to logistical and supply barriers, including taxes and tariffs and any other trading impediment, are additional overheads, which UK based companies must apply to their tender submissions when submitting tenders in this jurisdiction. In addition, it is the seller's obligation to import-clear the goods in the buyer's country and pay any duties and VAT (Delivered Duty Paid (DDP)).

Legal - public contracts will operate under the jurisdiction of the state and this should always be made explicit in each public contract. UK-based providers seeking to challenge public procurement matters are required to do so under the EU Directives only. Similarly contract disputes are only actionable under the law of this State

Insurance - providing compliant insurance cover post BREXIT by UK/NI economic operators including professional service providers is problematic and is dealt with under Section 3.6.4 herein and Appendix 6. Staff should refer to this section when specifying insurance requirements in procurement documentation. As a result of and, in line with IPB's Brexit Advice "Contractors Insurances - Guidance on the impact of Brexit on UK based insurers", Tenderers insurers must be listed by the Central Bank of Ireland (CBI) as an authorised insurer for this jurisdiction (Republic of Ireland).

From a local authority perspective, staff should use National Frameworks and the eTenders portal in so far as possible as these systems will have procedures in place which will ensure compliance with any future trade agreement. The difficulty arises where staff are engaged in sourcing low value purchases for goods/services or contracts below National Thresholds

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where a number of competitive quotations or tenders are required. New contracts, post-Brexit, will require specifications that account for market realities where UK-based service companies participate in the Irish market.

More changes are imminent and the situation will continue to evolve over time. Staff involved in procurement must monitor the advice, guidance and template documents in place by the OGP, LGOPC and CWMF. The OGP have a specific email contact for BREXIT-related queries: Brexit@ogp.gov.ie

As this is a dynamic situation please ensure the latest information is obtained from the sources listed in the table below. This document will be reviewed regularly due to the dynamic nature of the situation.

Table 2: Sources of Information on BREXIT

Source	Platform	Website
OGP	Office of Government Procurement	https://www.gov.ie/en/collection/58451-brexit-information-notes/
CWMF	Capital Works Management Framework	https://constructionprocurement.gov.ie/
Revenue	Revenue – Irish Tax and Customs	https://www.revenue.ie/en/customs-traders-and-agents/brexit/index.aspx

1.14 Tables of Procurement Procedures

The procurement actions to be followed are dependent on the type of procurement being undertaken. The tables and figures that follow provide details on the steps and procedures required to assist procurement staff complete a compliant process.

All of these tables, figures and process flows serve to provide a summary of the process and procedures on procuring contracts for Goods/General Services, Works and Works-Related Services in a user-friendly - and should be referred to prior to proceeding along the procurement cycle.

Table 3: Examples of Types of Procurement

Goods/Supplies & Services	Works	Work-Related Services
Purchase, lease or rental of a good/supply or a product e.g. stationery, vehicles, IT etc. Provision of services include (but not limited to) financial-related, auditors, management consultancy, waste disposal, equipment maintenance, social and related / education, legal, security, cultural and recreation management consultancy etc.	All construction-related building and civil engineering refurbishment; installation of certain categories – mechanical, electrical etc.; building maintenance etc. Must use Capital Works Management Framework (CWMF) www.constructionprocurement.gov.ie	Works-related including (but not limited to) engineering consultants, architects, multi-disciplinary design practitioners etc.

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Note: If value of services is greater than goods/supplies – it is a service contract, and vice versa

Table 4: Summary of Thresholds and Actions

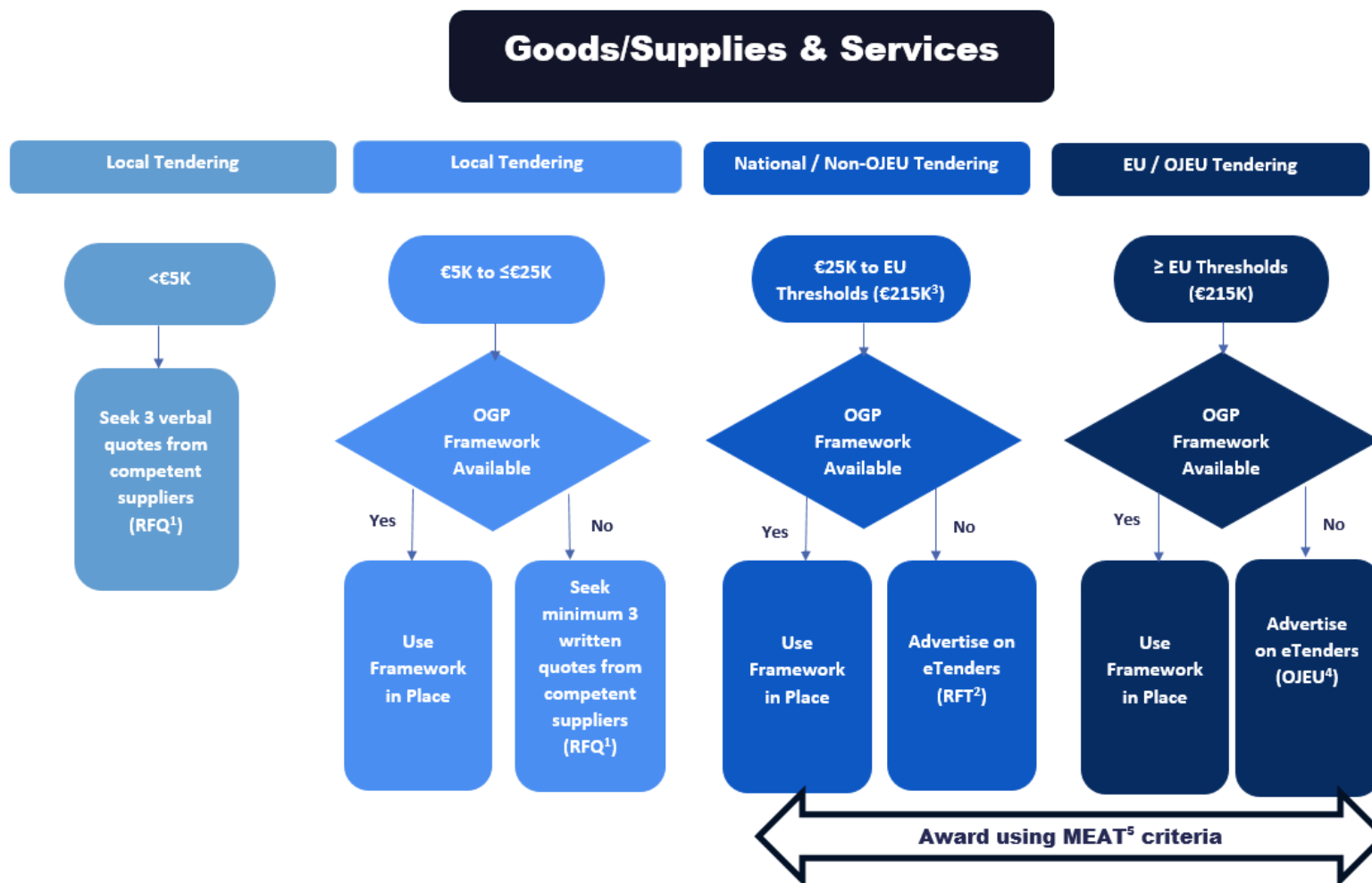
GOODS/SUPPLIES & SERVICES (01st Jan 2022 to 31st Dec 2023)		
Above €215,000 (EU Thresholds)	Above €25,000 (National Thresholds)	Below €25,000
Public advertisement – OJEU / eTenders	Public Advertisement – eTenders Public advertisement – OJEU (optional)	RFQ (Request for Quotation) €5,000 to €25,000 seek a minimum of 3 written quotes <€5,000 seek a minimum of 3 verbal quotes but must have documented evidence of having sought these and of responses where obtained Quick Quotes facility on eTenders to be used, where possible
WORKS (01st Jan 2022 to 31st Dec 2023)		
Above €5.382m (EU Thresholds)	Above €50,000 (National Thresholds)	Below €50,000
Public advertisement – OJEU / eTenders	Public Advertisement – eTenders Public advertisement – OJEU (optional)	RFQ (Request for Quotations) <€50,000 seek a minimum of 5 written quotes Quick Quotes facility on eTenders should be used, where possible
WORKS-RELATED SERVICES (01st Jan 2022 to 31st Dec 2023)		
Above €215,000 (EU Thresholds)	€50,000 - €215,000 (National Thresholds)	Below €50,000
Public advertisement – OJEU / eTenders	Public Advertisement – eTenders Public advertisement – OJEU (optional)	RFQ (Request for Quotations) <€50,000 seek a minimum of 5 written quotes Quick Quotes facility on eTenders should be used, where possible

The Quick Quotes facility on eTenders is a request for tenders below €25,000 from buyers to suppliers. The buyer can use eTenders to search for suppliers who can provide the specific business they require. They can search for them based on the CPV codes they have chosen, the key words they have entered on their Company Profile and based on their market coverage, i.e. where the supplier can provide business.

The following flow diagrams provide a top line overview of the relevant processes. Refer to Figures 5, 6 and 7 at the end of Section 3.0 for additional details.

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Figure 1: Goods/Supplies and Services Procurement Process Summary



Notes: ¹RFQ = Request For Quotation; ²RFT = Request For Tender; ³EU threshold valid until 31st Dec 2023 (changes every 2 years); ⁴OJEU = Official Journal of the European Union; ⁵MEAT = Most Economically Advantageous Tender

Figure 2: Works Procurement Process Summary

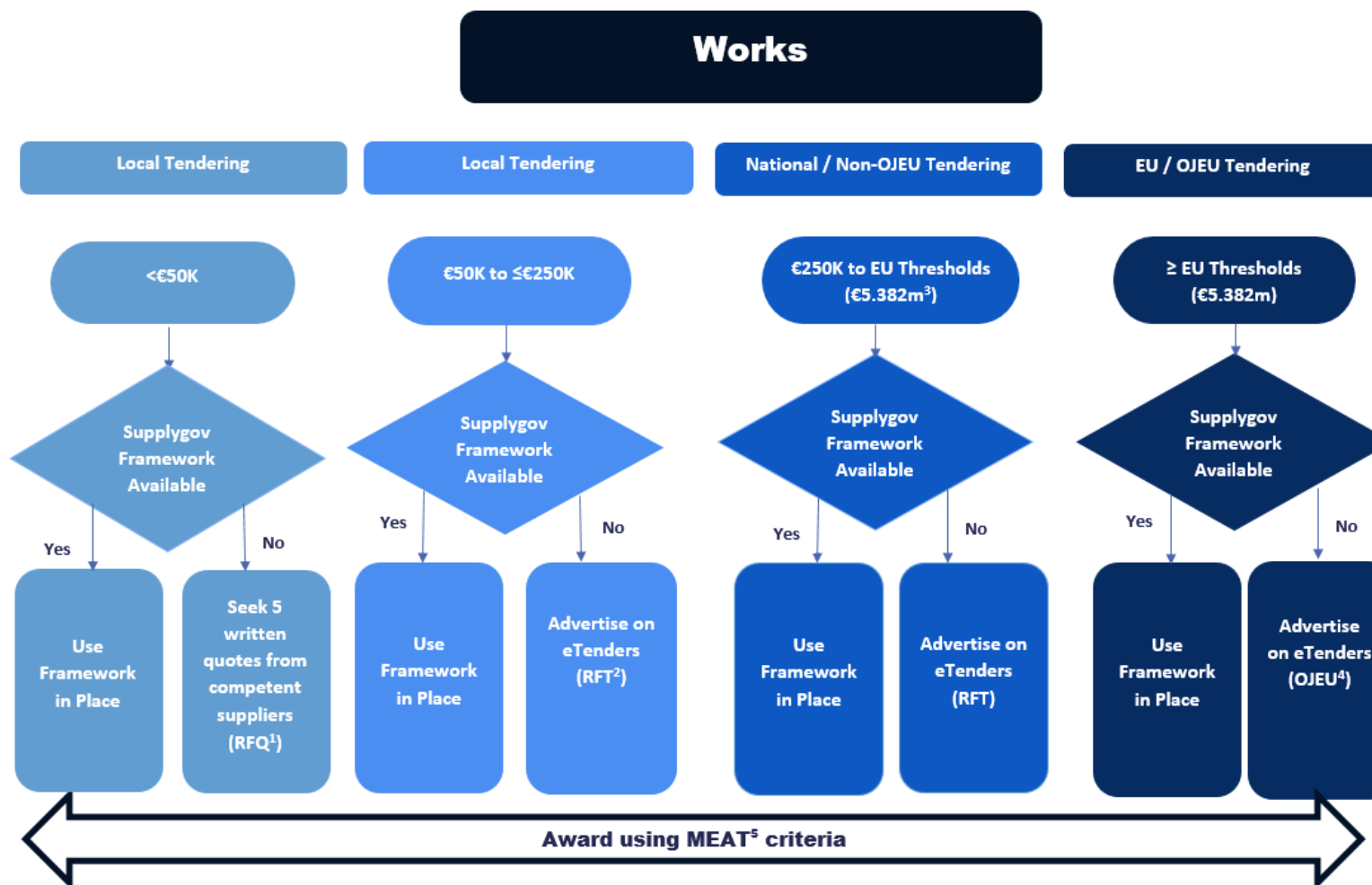
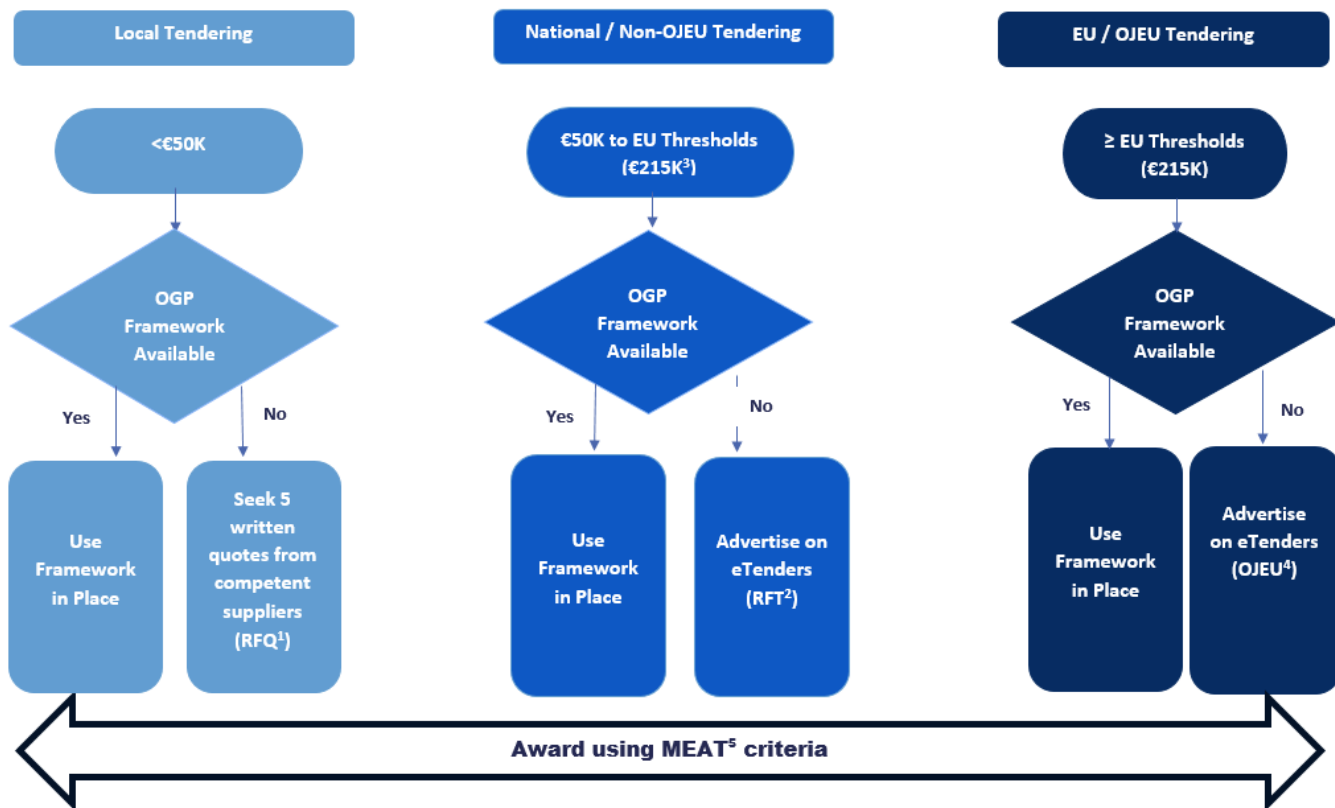


Figure 3: Works-Related Services Procurement Process Summary

Notes: ¹RFQ = Request For Quotation; ²RFT = Request For Tender; ³EU threshold valid until 31st Dec 2023 (changes every 2 years); ⁴OJEU = Official Journal of the European Union; ⁵MEAT = Most Economically Advantageous Tender

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Works-Related Services



Notes: ¹RFQ = Request For Quotation; ²RFT = Request For Tender; ³EU threshold valid until 31st Dec 2023 (changes every 2 years); ⁴OJEU = Official Journal of the European Union; ⁵MEAT = Most Economically Advantageous Tender

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1.15 Low Value Purchase Cards (LVP / LVPC)

Low Value Purchase Cards are used throughout the organisation by both outdoor and indoor staff for small value purchases typically with a value of between €100 - €200. This reduces the volume of low value POs created and the number of low value invoices that are processed, thus saving on valuable administrative resources and staff time.

The Low Value Purchase Card was introduced to enable small value purchases, typically with a value of between €100 - €200, thus saving on valuable administrative resources and staff time.

A card is assigned to one person and each card has its own:

- Transaction limit
- Monthly limit
- Authorised Vendor Categories

The card also has a 16-digit code which will be used to record the:

- Cost Centre/Project/Internal Order to be charged
- The General Ledger code to be charged

The Low Value Purchase Card is based on VISA Card Technology with added enhancement to suit the needs of commercial organisations. It is targeted at the multiple low value transactions for items other than Stock Parts. These purchases are processed through the Agresso MS4 purchase to pay system.

Albeit the proximity of the retail outlet is a determining factor when choosing the outlet for purchase, staff should strive to ensure that the price advertised for the product is competitive compared with similar retail outlets. A value for money exercise should be completed, insofar as possible, to ensure value for money is achieved prior to proceeding with purchase. The LVP card system enables:

- A reduction in the number of vendors on the system
- The prompt payment of these vendors
- A reduction in purchase orders being created and invoices processed
- A reduction in the number of invoices to be processed

The LVP card facilitates a local budget holder making purchases independently. The Low Value Purchase Card Buyer shall report to the Head of Finance on matters relating to procurement and advise them of any matters giving cause for concern.

All LVP suppliers need to be set up on the Agresso system, which was one of the reasons the online LVP system was introduced - to link the LVP transaction to the supplier. The **supplier address and VAT number** is required to get an LVP supplier set up on Agresso. A Supplier Set-Up form needs to be completed by the relevant section to ensure that the correct supplier details are available and set up on Agresso.

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Louth Local Authority cannot conduct business with a trader who is not registered for VAT. For this reason, sections are advised to check the Agresso system prior to making purchases to ascertain that the traders supplying the same goods are already set up.

The exception would be those engaged in Emergency Services but even they were supplied with a list of restaurants and fast food outlets already set up on Agresso.

The merchant bank forwards a monthly statement listing the name of the card holder and their purchases for the month which is forwarded to the section administrators. The statement cannot be imported into the online LVPC system if a purchase has been made from a supplier not on the Agresso system. The relevant section administrator must update the LVP supplier set-up form with the retailer business address and VAT number and forward to Agresso for the supplier to be set up. The section administrator reconciles the monthly Visa Statement with receipts submitted from the card holder. If an error is found on the Statement, or a query is raised, the section administrator or the person responsible must deal with the bank to resolve the issue. The budget holder gives final approval. The Statements will be audited periodically by the Head of Finance or their nominated delegate

Misuse of cards can result in a card being revoked

Detailed Guidelines and Procedures on Low Value Purchase Cards Administration and Processing are in place and controlled by the Finance department (Ref: P/PROC-001). Appendix 9 provides an overview of the LVP Application Process.

It is imperative that all sections/departments ensure that aggregate spend does not breach procurement thresholds and that procurement mechanisms in place are not circumvented through the use of LVP cards.

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SECTION 2.0

PUBLIC PROCUREMENT RULES

2.0 Public Procurement Rules

Louth County Councils Procurement Policies and Procedures are governed by European and National legislation, National Guidelines, DPER Circulars, Public Spending Code Rules, best practise guidelines and Relevant Case Law.

2.1 Regulatory Framework

Key documents and publications in the regulatory framework include:

- EU Directive 2014/24/EU also referred to the Public Sector Directive which was transposed into Irish Law by S.I. No. 284/2016 European Union (Award of Public Authority Contracts) Regulations 2016, also referred to as the 2016 Regulation
- Public Procurement Guidelines for Goods and Services, Version 2: Issued January 2019
- Capital Works Management Framework (CMWF), provides policy and guidance relating to works and works related services
- Key Circulars discussed in section 2.3
- Case Law at National and European Level

The requirements set out above are referred to collectively as “public procurement rules”. All EU Directives/National legislation, policies and circulars governing public sector procurement in Ireland can be accessed on the National Procurement websites: www.ogp.gov.ie and www.constructionprocurement.gov.ie.

EU and National regulatory bodies monitor and report on the procurement activities of public bodies. At a sectoral level the Local Government Strategic Procurement Centre (LGOSPC), and the LGMA (via the Data Analytics Project Spend Data) regularly review procurement in each Local Authority and report directly to a Local Government Agency (LGMA) Programme Board and to the Office of Government Procurement.

2.2 Public Procurement Principles

The awarding of contracts by Public Bodies is subject to the principles of the Treaty of Rome, which form the basis of all Procurement legislation. The principles apply to all procurement activities irrespective of value. These include:

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- **Transparency:** examples include: being open and transparent about the procurement process; advertise and communicate purchasing intentions through the eTenders platform or Official Journal of the EU; provide clarifications to ALL interested parties during the tender process; Communication and publication of evaluation decisions. Retention of a procurement file.
- **Equal Treatment and Non- Discrimination:** examples include: applying the same rules to all; giving all prospective tenderers the same rights of access; making objectively fair decisions; treating all equally irrespective of nationality.
- **Proportionality:** examples include: ensuring that no excessive or disproportionate conditions, criteria or rules are applied; all measures used must be both necessary and appropriate in relation to the objective (i.e. the award of a contract or disqualification of a tenderer)
- **Mutual Recognition: examples include:** Professional qualification from other jurisdictions to be recognized, standards and specifications to be used as a reference only, and must be accompanied by the phrase “or equivalent”.

2.3 Public Procurement Circulars - Ireland

A government circular is a written statement of government policy and is of particular significance in the Local Government Sector. It provides information, guidance or rules, and/or background information on legislative or procedural matters.

The Circulars of significant importance and that are relevant in Procurement and Purchasing procedures in the Local Authority sector include (but are not limited to):

- **Circular FIN 07/2012** *Notice on Publication of Purchase Orders over €20,000*

Under the Public Service Reform Plan, every purchase order over a certain value made by a Government Department or Local Authority or Agency must be published online. This refers to payments for goods, services or works procured. Payments in Louth County Council over €20,000 are published on the Council’s website on a quarterly basis. It is essential that proper procurement procedures are adhered to in all instances.

- **DPER Circular 16/2013** *Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service (now OGP)*

Public bodies are reminded that such central procurement frameworks are targeted at securing best value for money and facilitating contracting authorities to deliver services. Public bodies should engage and promote the use of central frameworks. Where public bodies do not utilize central procurement frameworks they should be in a position to provide a value for money justification. Value for money should take

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account of the full costs of running a public procurement competition. Public bodies must comply with their obligations under national law and guidelines.

- **DPER Circular 05/2013** *Procurement of legal Services and Managing Legal Costs*

The purpose of this Circular is to remind public bodies of their obligations to ensure that their procurement of legal services complies with the rules and guidelines on public procurement. The Circular also outlines appropriate competitive procedures that can be used in the engagement of legal services and sets out a number of approaches and tools for public bodies to use in managing legal costs.

- **DPER Circular 01/2011** *Model Tender and Contract Documents for Public Service and Supply Contracts*

The Minister for Public Expenditure and Reform is concerned to ensure that contracting authorities conduct their public procurement function efficiently and economically and in a manner that is compliant with EU procurement law. Where the appropriate structures, procedures and practices are not in place, significant problems and risks can arise for the State. This may result in delays in awarding contracts, financial exposure and potential litigation in the national Courts or the Court of Justice of the European Union.

- **DPER Circular 10/2014** *Initiatives to assist SME's in Public Procurement*

This is a guidance circular that is designed to further enable SME's in competing for public contracts. It is in line with EU policy on increased SME participation in public procurement. At all times this guidance is to be implemented by buyers in accordance with the principles of EU law, and in a manner that is fully compliant with EU public procurement law and national guidelines.

- **DPER Circular 02/2016** *Arrangements for Digital and ICT related expenditure in the Civil and Public Service*

This circular supersedes Department of Finance Circulars 02/2009 & 02/2011; and simplifies the arrangements for approval and oversight of ICT expenditure through greater alignment with estimates process, relevant strategies and strategic objectives.

As well as other requirements of this circular, all ICT procurement opportunities with a value of €25,000 or greater must be advertised on the eTenders website unless it is proposed to use a properly procured exiting framework arrangement or a central framework. Mini-competitions or supplementary requests for tender must be

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conducted fully within the rules governing the relevant framework or procurement vehicle.

- **DPER Circular 20/2019** *Promoting the use of Environmental and Social Considerations in Public Procurement.*

This Circular advises on the wider use and implementation strategy for the use of social considerations in public procurement, taking into account the Climate Action Plan 2019. It advises that proposals on the implementation of Green Public Procurement will be developed by the Department of Communications, Climate Action and Environment and the OGP. Procurement can also be used to promote other social considerations including: employment and training opportunities for disadvantaged groups, disability access, promoting social inclusion and social enterprises. The OGP has provided further guidance on this issue and can assist and advise on the appropriate use of social considerations in public contracts.

- **DPER Circular 13/2013** *The Public Spending Code: Expenditure Planning, Appraisal & Evaluation in the Irish Public Service – Standard Rules and Procedures*

This circular is relevant to all officials in public bodies involved in activities related to the appraisal, management, implementation and review of expenditure. In particular, all managers with responsibility for an area of expenditure must ensure adherence to the Public Spending Code

- **DPER Circular 18/2019** Update of the Public Spending Code (PSC): Central Technical References and Economic Appraisal Parameters

The purpose of this Circular is to notify Departments and Offices that the central technical references and economic appraisal parameters contained in the Public Spending Code (PSC) have been updated. This Circular updates the application of the following parameters:

- Social Discount Rate
- Shadow Price of Public Funds
- Shadow Price of Labour
- Shadow Price of Carbon

This circular is relevant to all public bodies involved in activities related to the appraisal, management, implementation and review of public expenditure.

- **DPER Circular 06/2018:** *The Public Spending Code: Publication of Post Project Reviews*
Available here.

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Chapter 4 of the Comptroller and Auditor General's 2016 Annual Report – Overview of Public Private Partnerships (PPP's) – includes a recommendation that the Department of Public Expenditure and Reform should ensure that post project reviews of PPP projects are carried out after sufficient time has elapsed to allow the project to become fully operational and should ensure that the reviews are published.

- **DPER Circular 25/2021:** *Update of the Public Spending Code: Guidelines for the External Assurance Process for Major Public Investment Projects*
Funding departments have a mandatory requirement to engage in an External Assurance Process (EAP) at Decision Gate 1 (Approval in Principle) and Decision Gate 2 (Pre-Tender Approval) for Exchequer-funded projects with an estimated capital cost in excess of €100m

Significant Construction Circulars include (but are not limited to):

- **DPER Circular 10/2018** *Construction Procurement Reform – Amendment to the threshold for the procurement of public works projects using the Short Public Works Contract*
- **DPER Circular 01/2016** *Construction Procurement – Revision of arrangement of public works projects*

2.4 Capital Works Management Framework (CWMF)

The Capital Works Management Framework, contains a suite of guidance, standard contracts and generic template documents all included at www.constructionprocurement.gov.ie These documents are to be used by contracting authorities involved in the expenditure of public funds when procuring works or works-related consultancy services.

The use of these framework documents should result in a more cost effective delivery of public works projects because of the systematic, detailed approach to, among other things, planning (both initial and detailed capital budgeting) as well as design and construction cost control. The CWMF contains an integrated set of contractual provisions, guidance material, technical templates and procedures which cover all aspects of the contract delivery and review. The structure of this strategic framework is closely aligned and compliments the Capital Appraisal Guidelines (Public Sector Code) issued by the Department of Finance

The Capital Management Works Framework Documents is a structure that has been developed to deliver the Government's objective in relation to public sector construction reform. It consists of a suite of best practice guidance, standard contracts and generic template documents. The aim is to ensure that there is an integrated methodology and consistent approach to the planning, management and delivery of public capital works projects with the objectives of greater cost certainty, better value for money and more efficient project delivery.

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2.5 Central Government Procurement

One of the priorities in the Public Sector Reform is to achieve reduced costs and better value for money through procurement reforms, and in this regard target savings were set for the entire public sector. The reform included for the transition from local procurement of goods and services, to the greater use of centralised contracts and frameworks for use by the public sector, coordinated and driven by the Office of Government Procurement (OGP), with the support of four key sectors, Health, Defence, Education and Local Government.

The OGP also have the responsibility for developing and implementing national procurement policy and procedures. The OGP have developed a number of category councils of spend for goods and services across the public sector, with the aim of developing procurement procedures and going to the market as “one voice” for each category of expenditure, thus eliminating duplication, and using aggregated purchasing to leverage better prices. The category councils and frameworks currently in place by the OGP can be found at ogp.gov.ie

The National Frameworks are constantly changing depending on the demand spend for a category council and resources within the OGP to deliver the framework. If frameworks are not available or discontinued, then Louth County Council should pursue their own procurement procedures while complying with policies contained herein and including the 2016 Regulations (for above EU Threshold) and National Guidelines (for below EU threshold).

2.6 Local Government Procurement

2.6.1 Local Government Strategic Procurement Centre (LGSPC)

The Local Government Strategic Procurement Centre (LGSPC) based in the Local Government Management Agency (LGMA) provides strategic procurement advice and assistance in relation to procurement across the Local Government Sector. The purpose of the LGSPC is to oversee the reform of procurement across the Local Government Sector; participate meaningfully on the structures of the OGP and ensure that the sector is represented in the Category Councils and Sourcing Teams that are established to oversee the procurement of goods and services. There is a full time compliance and support officer overseeing all activities in Local Government.

2.6.2 Local Government Operational Procurement Centre (LGOPC)

The Local Government Operational Procurement Centre (LGOPC) based in Kerry County Council was set up to provide an operational procurement function for the Local Government Sector acting as a “shared service provider”. It has recently widened its role to provide a similar service to other public sector organisations. The LGOPC provides a lead procurement role for the public service in the management of a number of key categories, some of which include: - Plant Hire, Minor Works/Civil, Road Making Materials, and Energy Retrofitting Works etc.

The LGOPC supports the Supplygov.ie website which is used to facilitate the operation of specified frameworks and Dynamic Purchasing Systems (DPS), e.g. hire of plant, equipment,

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purchase of materials and products. The website allows Local Authorities to run mini competitions with qualified suppliers.

2.6.3 The Public Spending Code

The Public Spending Code (PSC) is a set of rules, procedures and guidance to ensure Value for Money in public expenditure across the Public Service. It imposes obligations on all stages of the project lifecycle on organisations that spend public money. It includes particular guidance on the standards for the development of business cases.

The PSC rules apply to both Revenue and Capital expenditure and apply to a project, programme or contract which has an expenditure exceeding €500,000. The project, programme or contract and ALL documentation that is completed for the delivery and execution of the service or works, must be in full compliance with the reporting and documentation requirements of the public spending code. (Ref: www.gov.ie/en/publication/public-spending-code.ie and Appendix 14, “A Guide to Evaluating, Planning and Managing Public Investment”)

There are six stages in the project lifecycle when applying the PSC rules. The Project Lifecycle refers to the series of steps and activities which are necessary to take the proposal from concept to completion and evaluation. Projects vary in size and complexity but all projects can be mapped to the following project lifecycle structure:

- i. Strategic Assessment
- ii. Preliminary Business Case
- iii. Final Business Case (including design, procurement strategy and tendering)
- iv. Implementation
- v. Review
- vi. Ex-Post Evaluation

It is noticeable that the majority of Louth County Council projects are at the lower end of the PSC threshold, and for such projects the PSC rules allows for a degree of proportionally when fulfilling the requirements of the code (Ref: Appendix 14, 2.2.3). The code advises that the *“scale and detail of evaluation, planning and management of public investment should be commensurate with the scale of the proposal under consideration”*. Council staff should be aware of this relaxation and the allowance to provide a proportionate response relative to the value of the project. The Approving Authorities should be consulted for sector-specific guidance where relevant.

It is important that Louth County Council staff leading on projects where PSC rules apply, understand the role of the local authority and complete the stages required. Where specified stages are not applied by council staff or not included in the project lifecycle then the reason for their exclusion should be clearly identified and documentation retained in the procurement file for audit purposes.

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When completing the various stages, it is essential that the key documents, reports and deliverables that record and document the development of the project from appraisal stage, through procurement, implementation and contract management, are identified and documentation retained for future auditing and reporting purposes in accordance with DPER guidelines.

Further details are included in Appendix 2 and 14 which provide guidance on the steps to be followed and documentation to be retained in the procurement file for future auditing.

Louth County Council are committed to complying with the PSC by adhering to the Public Spending Code Guide “A Guide to Evaluating, Planning and Managing Public Investment” which is available via link in Appendix 14 of this document. This guide makes a distinction between the roles of the Sponsoring Agency, Approving Authority and Parent Department and identifies the responsibilities of the designated parties, when delivering on their obligations under PSC rules.

In summary, the project is assessed by the Sponsoring Agency, i.e. the body delivering the project, throughout to ensure it represents value for money. At key designated stages in the lifecycle, the body funding the project, i.e. the Approving Authority (previously known as the Sanctioning Authority), is responsible for approving whether or not the project can move to the next stage.

2.6.3.1 The Sponsoring Agency

- The Sponsoring Agency has primary responsibility for evaluating, planning and managing public investment projects within the parameters of the Public Spending Code
- The Sponsoring Agency may be a government department, local authority, state agency, higher education institute, cultural institution or other state body
- The Sponsoring Agency is the organisation spending the grant/public monies received
- The Sponsoring Agency must obtain the necessary approvals from the Approving Authority at each point in the process and ensure that the project proceeds along the lines approved by the Approving Authority.

2.6.3.2 The Approving Authority

- The Approving Authority was known as the Sanctioning Authority in previous iterations of the Public Spending Code. The Approving Authority has ultimate responsibility for the project
- Approving Authority is the organisation allocating the grants/public monies for the projects

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2.6.3.3 The Parent Department

It is the responsibility of the relevant government department to ensure that procedures are in place to ensure compliance with the Public Spending Code within their department/office and within the bodies under the aegis of their department.

The table below summarises the project lifecycle stages, the output required at each stage and relevant responsibilities. Refer to the link in Appendix 14 for further details or go directly to “Public Spending Code. A Guide to Evaluating, Planning and Managing Public Investment”, published by DPER.

Table 5: Summary of PSC Project Lifecycle Stages, Outputs and Responsibilities

Stage	Product / Output	Responsibility for Product / Output	Governance ²
Strategic Assessment	Strategic Assessment Report	Sponsoring Agency ¹	Approving Authority (Decision Gate 0)
Preliminary Business Case	Preliminary Business Case (to be published)	Sponsoring Agency ¹	Approving Authority (Decision Gate 1) ³ – Approval in Principle
Final Business Case	Detailed Project Brief and Procurement Strategy	Sponsoring Agency ¹	Approving Authority (Decision Gate 2) ³ – Pre-tender Approval
	Tender Documentation	Sponsoring Agency ¹	
	Final Business Case (to be published)	Sponsoring Agency ¹	Approving Authority (Decision Gate 3) ³ – Approval to Proceed
Implementation	Monitoring Reports	Sponsoring Agency ¹	Approving Authority – Intervention Points, where required
Review	Project Completion Report (to be published)	Sponsoring Agency ¹	Approving Authority – Reflection of findings in PSC implementation arrangements
Ex-post Evaluation	Ex-post Evaluation Report (to be published)	Sponsoring Agency ¹	As Above

Note ¹: Where two bodies are involved, establish clarity at an early stage as to who the Sponsoring Agency is and clearly set out the responsibility for project roles.

Note²: Approval at any stage in the project lifecycle constitutes approval to the next stage rather than overall project approval

Note³: Government approval is required for proposals with an estimated cost over €100million. Government approval should be sought through a Memorandum for Decision. Government approval is required at Decision Gate 1, 2 and 3 in this instance.

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2.7 Thresholds and Advertising

The procurement procedures and timescales that apply will vary depending on the type of procedure chosen and the estimated value of the contract. It is important that a *bona fide* pretender estimate of the contract should be established before deciding on the procurement procedure to follow.

The following guidelines should be adhered to in calculating the value of the proposed contract:

- Estimated value is based on the total amount payable (excluding VAT) and inclusive of any form of options and renewals
- Estimated value must be valid at either time when the contract notice is sent or when the award procedure commences
- Subdivisions of requirements in order to circumvent EU or National requirements are not permissible, where it would maintain a contract value below EU or National Thresholds
- Where there is a requirement for the same goods/services across the organisation during the same period, the aggregated value is to be calculated and all departments shall draw down from this contract.

2.7.1 Contract with a value above the EU Threshold (excluding VAT)

The EU thresholds are revised every two years and change depending on inflationary or deflationary increases or decreases in the market. The thresholds determine the value at which the EU Procurement Directive and the Public Sector Regulations 2016 apply, and whether or not the procurement procedure should be advertised in the Official Journal of the European Union (OJEU). If a contracting authority deems a contract to have a “cross border interest” then it too must be advertised in the OJEU, irrespective of the monetary value of the contract.

Up to date thresholds can be checked on the EU public procurement website www.simap.europa.eu. For the purposes of this document the thresholds currently in place are detailed in the tables below.

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Table 6: Public Sector Procurement Thresholds

PUBLIC SECTOR THRESHOLDS Jan 2022 to Dec 2023				
Sector	Supplies / Goods	Services	Works	Title III
Local and Regional Authorities and Public Bodies governed by Public Law	€215,000	€215,000	€5,382,000	€750,000
Central Government	€140,000	€140,000	€5,382,000	€750,000

Table 7: Utilities Sector Procurement Thresholds

UTILITIES SECTOR THRESHOLDS Jan 2022 to Dec 2023				
Sector	Supplies / Goods	Services	Works	Title III
Water, Energy, Transport and Postal Sectors	€431,000	€431,000	€5,382,000	€1,000,000

Table 8: Concessions Procurement Thresholds

CONCESSIONS THRESHOLDS Jan 2022 to Dec 2023				
Sector	Supplies / Goods	Services	Works	Title III
All Sectors	N/A	€5,382,000	€5,382,000	€5,382,000

2.7.2 Contracts with a value below the EU Thresholds (exVAT) – National Rules Apply

National Guidelines have been published by the Office of Government Procurement which provide guidance for contracts with values less than the EU Threshold. The procurement procedures differ, between Goods and Services Contracts, Works Contracts, and Works-Related Services and are summarised in the table below.

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Table 9: Summary of Procurement Guidance for Contracts below EU Thresholds

Contract Type	Estimated Value of Procurement	Procurement Procedure Summary	CWMF Guidance	OGP Guidance	Executive Orders
Works	Less than €50,000	Direct Invitation. Seek a minimum of 5 written tenders from interested and competent contractors	GN 2.3 – Procurement Process for Works Contractors	N/A	Appendix 1 “Procurement Approval Levels and Authorisation Thresholds”
	€50,000 - €250,000	Open Procedure Publish Contract Notice on eTenders	GN 2.3 – Procurement Process for Works Contractors	N/A	Appendix 1 “Procurement Approval Levels and Authorisation Thresholds”
	€250,000 - EU Threshold	Open or Restricted Procedure. Publish Contract Notice on eTenders	GN 2.3 – Procurement Process for Works Contractors	N/A	Chief Executive Order delegated
Works-Related Services	Less than €50,000	Direct Invitation. Seek a minimum of 5 written tenders from interested and competent consultants	GN 1.6 Procurement Process for Consultancy Services (Technical)	N/A	Appendix 1 “Procurement Approval Levels and Authorisation Thresholds”
	€50,000 – EU Threshold	Open Procedure Publish Contract Notice on eTenders	GN 1.6 Procurement Process for Consultancy Services (Technical)	N/A	Chief Executive Order delegated
Goods / Supplies or General Services	Less than €5,000	Seek 3 verbal quotes from competent suppliers / service providers (documentary evidence of having sought this is required)	N/A	Public Procurement Guidelines for Goods and Services	Appendix 1 “Procurement Approval Levels and Authorisation Thresholds”
	€5,000- €25,000	Direct Invitation. Seek a minimum of 3 written quotes from competent suppliers / service providers	N/A	Public Procurement Guidelines for Goods and Services	Appendix 1 “Procurement Approval Levels and Authorisation Thresholds”
	€25,000-EU Threshold	Open Procedure. Publish Contract Notice on eTenders	N/A	Public Procurement Guidelines for Goods and Services	Appendix 1 “Procurement Approval Levels and Authorisation Thresholds”

2.8 Advertising on eTenders

Public bodies are required to advertise tender competitions for Goods and Services (with a value over €25,000), and Works and Works Related Services Contracts (with a value over €50,000), on the eTenders platform, at www.etenders.gov.ie. The main method for advertising competitions is using Request for Tender (RFT) notices. RFT template documents,

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which include contract documentation are available for Goods and General Service Tender Competitions and are included on www.ogp.gov.ie website.

Award notices must be published for all contracts over €25,000 (for Goods or Services) and €50,000 (for Works/Works Related Services). There is no further requirement or obligation to supplement e-Tenders advertising in other media such as local or national print media.

2.9 Choice of Procedures

The choice of Public Procurement Procedures and prescribed timescales which can be used depends on the nature and value of the proposed procurement. There are **six** main types of procedures and these include: -

- i. The Open Procedure (*most common*)
- ii. The Restricted Procedure
- iii. The Competitive Dialogue Procedure
- iv. The Competitive Procedure with Negotiation (CPWN)
- v. The Innovation Partnerships Procedure
- vi. Negotiated Procedure without Prior Publication

Whatever procedure is used care should be taken to ensure that project specifications are as open and generic as possible in order to avoid favouring any one solution or any one party.

2.9.1 The Open Procedure

This is a one stage process where the contracting authority advertises a request for tender (RFT) to which any interested parties may submit a tender. Information on tenders' suitability which may include the financial/economic and technical/professional capacity, is sought in addition to proposals to meet the specification of requirements. Where there are minimum suitability requirements, they must be clearly set out to avoid unsuitable tenderers incurring the expense of preparing and submitting tenders.

In accordance with Circular 10/14 in support of small and medium enterprises, the open procedure must be used for contract values:

- Supplies/General Services – between €25,000 and €215,000
- Works related Services – between €50,000 and €215,000
- Works – between €50,000 and €250,000

2.9.2 Restricted Procedure

The restricted Procedure is a two stage procedure. A pre-qualification stage which is open to all interested parties who wish to submit an expression of interest, and an award stage where candidates shortlisted at the pre-qualification stage are invited to submit tenders and are assessed against Award Criteria.

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2.9.3 Competitive Dialogue

The Competitive Dialogue Procedure may only be used for works, goods and services contracts where one or more of the following circumstances apply:

- The needs of the contracting authority cannot be met without adaption of readily available solutions
- The contract includes design or innovation solutions
- The technical specifications cannot be established with sufficient precision
- A contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of risks attached to the works, goods or services.
- In response to an Open or Restricted Procedure where only irregular or unacceptable tenders were submitted.

The tender process is a multi-stage process and includes:

- Invite expressions of interest (prequalification)
- Dialogue
- Request for tender

2.9.4 Competitive Procedure with Negotiation

The Competitive Procedure with negotiation may only be used for works, goods and services contracts where one or more of the following circumstances apply:

- The needs of the contracting authority cannot be met without adaption of readily available solutions
- The contract includes design or innovation solutions
- The technical specifications cannot be established with sufficient precision
- A contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of risks attached to the works, goods or services.
- In response to an Open or Restricted Procedure where only irregular or unacceptable tenders were submitted.

This is a multi-stage process and includes:

- Invite expressions of interest (pre-qualification)
- Request for Tender
- Negotiation meetings
- Submission of “Best and Final Offers”

Only suppliers invited to participate may submit an initial tender which shall be the basis for the negotiations. This can be followed by several rounds of negotiation in order for the contracting authority to seek better offers. There is the possibility of reducing the number of tenders during the process by applying published award criteria as set out in the Contract Notice.

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2.9.5 Innovation Partnership Procedure

Innovation Partnerships can be used where there is no existing goods or service currently available on the market that meets a contracting authority's needs. Contracting authorities can set up innovative partnerships with one or more several partners conducting separate research and development activities. The aim of the innovation partnership is the development of innovative goods, services or works and its subsequent purchase provided it corresponds to the performance levels and maximum costs agreed between the contracting authority and the participants. A record of clear reasons for selecting this approach is required.

2.9.6 Negotiated Procedure without Prior Publication

The Negotiated Procedure without Prior Publication can only be used in a limited number of narrowly defined circumstances. Regulation 32 of the 2016 Regulations sets out an exhaustive list of limited circumstances. The absence of a call for competition is a departure from the core principles of openness, transparency and competition and is such is only used in very exceptional procedure. It should be noted that circumstances set out in Regulation 32 are strictly interpreted by the Commission and the Courts. Where one of these exemptions is invoked, the contracting authority must be able to justify the use of the exemption. It is important that there is an audit trail including, where relevant, why the Open and Restricted Procedures were not considered appropriate.

One such circumstance which justifies the use of this procedure includes: -

"in so far as is strictly necessary in cases of extreme urgency not attributable to the contracting authority and brought about by events unforeseeable by the contracting authority when the time limits for the Open or Restricted Procedure or Competitive Procedures with Negotiation cannot be complied with"

This circumstance has been invoked by contracting authorities during the pandemic. The table below summarises the types of procedures and their application.

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Table 10: Summary of Procedures and their Application

Procedure	Process	Suitability for Use
Open	Single Stage – anyone who wants can submit a tender	Required for: Supplies/Goods and General Services Contracts between €25,000 and €215,000; Works Related Service Contracts between €50,000 and €215,000; Works Contracts between €50,000 and €250,000
Restricted	Two Stage – anyone who wants can apply, with at least 5 having been invited to tender	Suitable where there is a high level of interest in the market; where tendering is expensive; where buyer needs to manage risk
The Competitive Dialogue Procedure	Three Stage – anyone who wants can apply; at least 3 invited to dialogue stage, followed by tender stage with tenderers who offer suitable solutions	For complex projects where the Open or Restricted Procedure would not be suitable to deliver the contract and the specification cannot be developed
Competitive Procedure with Negotiation (CPWN)	Two Stage – anyone who wants can apply and 3 have to be invited to negotiate (can include negotiation on all aspects including costs)	Available to public sector in certain circumstances and where a base-line specification is available
Innovation Partnership Procedure	Suitable for design adaptation or innovation (not suitable for off-the-shelf solutions)	For complex research type projects to support development of solutions
Negotiated Procedure without Prior Publication	Absence of a call for competition is a departure from the core principles of openness, transparency and competition and is such is a <u>very exceptional</u> procedure – strictly interpreted by the Commission and the courts. Justification required	Used in a limited number of narrowly defined circumstances as set out in Regulation 32 of the 2016 Regulations; COVID-19 pandemic of 2020 is such an example of its use

2.10 Timescales

There is no prescribed time limit for below threshold tenders. However, guidelines recommend allowing 21 days in order to facilitate a proper competition and to allow tenders time to prepare and submit their bids. Time scales are calculated in calendar days and are set out below for National Tenders (or below EU Threshold) and Tenders advertised in OJEU (above EU threshold).

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Table 11: Minimum Timelines for National Tenders

Minimum Timelines for National Tenders – Calendar Days		
Procedure	Expressions of Interest	Minimum Days for Receipt of Tenders
Open	N/A	21 days
Restricted	21 days	21 days

Table 12: Minimum Timelines for OJEU Tenders

Minimum Timelines for OJEU Tenders – Calendar Days					
Procedure	Expressions of Interest	Hard Copy Receipt of Tenders	Minimum Days for Receipt of Tenders		
	Min. Days	Min. Days	With Electronic Submission	With PIN Published 35 days previous / ≤ 12 months	Urgent (with duly substantiated reason)
Open	N/A	35 days	30 days	15 days	15 days
Restricted	30 days (15 days Urgent)	30 days	25 days	10 days	10 days
The Competitive Dialogue Procedure	30 days	None Specified	None Specified	None Specified	None Specified
Competitive Procedure with Negotiation (CPWN)	30 days (15 days Urgent)	30 days	25 days	10 days	10 days
Innovation Partnership Procedure	30 days	30 days	25 days	10 days	10 days
Negotiated Procedure without Prior Publication	N/A				

When fixing the time limits for the receipt of tenders and requests to participate for above threshold contracts, contracting authorities shall take account of the complexity of the contract and the time required for drawing up tenders, without prejudice to the minimum time limits set out in Regulations 27 to 31 of the Public Sector Regulations 2016.

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2.11 CPV Codes

CPV (Common Procurement Vocabulary) Codes are the primary coding system relating to the categorization of contracts. The contracting authority must select the correct CPV codes (several may be used) appropriate to the subject matter of the contract advertised, in order that registered suppliers are notified of the competition. CPV codes define the type of contract and must be entered on eTenders. CPV codes are available on the Information System for European Public Procurement i.e. <https://simap.ted.europa.eu/>

Table 13: CPV Code Categories

Goods/Supplies & Services	Works	Work-Related Services
CPV Code Series: 03 – 44 & 48	CPV Code Series: 45	CPV Code Series: 50+

2.12 Prior Information Notices (PIN) in the OJEU

In some procedures it is possible to reduce the minimum time limits where a suitable PIN has been published. A PIN would be suitable where all the following apply:

- The PIN was not itself intended to represent a call for competition. The PIN was published no more than 12 months and no less than 35 days before the date of dispatch to the OJEU of the contract notice.
- The PIN includes certain brief information about the type and value of the contract, to the extent that it was available to the authority at the time of its dispatch to OJEU.

2.13 Contract Notice

A Contract Notice, often referred to as an OJEU advertisement or a contract notice, is required to be published in the OJEU, informing the European Public at large of a contracting authorities intention to let a contract. Contract Notices set out the key details of the procurement process and the type of contract being advertised.

Contracting Authorities may also publish contract notices in the OJEU in respect of procurement procedures that are not regulated, but this is optional.

2.14 Contract Award Notices (CAN)

Within 30 days of the award of a contract, Framework Agreement or Dynamic Purchasing System, a Contract Award Notice must be sent to the OJEU via eTenders. The information which is to be provided in the Contract Award Notice is set out in Part 4 of Schedule 3 of 2016

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Regulations. If procuring off a framework, the obligation to publish a Contract Notice in the OJEU extends only to the award of the Framework Agreement itself and does not apply to the award of specific contracts under the framework.

However, in line with DPER Circular 10/14, contracting authorities are required to publish all Contract Award Notices over €25,000 on the eTenders website on completion of the award. This is a separate step to publishing on the OJEU, which is aimed at facilitating the measurement of SME participation in public procurement.

Goods and services contracts with a value in excess of €25k must be advertised on eTenders. Where works and works-related services are concerned, the threshold is €50k. Even though the requirement to advertise a contract on eTenders for works or works-related services only arises where the anticipated value of the contract is in excess of €50k there is still an obligation to publish a contract award notice for works with a value in excess of €25k in the interest of transparency. A contract award notice/publication for all contracts with a value in excess of €25k is required. There is functionality on eTenders to publish a contract award notice for tenders managed outside of eTenders – refer to the user manual on eTenders at:

[https://www.etenders.gov.ie/Media/Default/SiteContent/UserGuides/Contracts for Mini - competitions and Standalone Awards.pdf](https://www.etenders.gov.ie/Media/Default/SiteContent/UserGuides/Contracts%20for%20Mini%20competitions%20and%20Standalone%20Awards.pdf)

Contracting authorities may refrain from publishing certain information required in a Contract Award Notice where its release would impede law enforcement, be contrary to the public interest, would harm legitimate commercial interests of a particular tenderer or may prejudice fair competition between tenderers. The basic principles that are set out in the directive (Article 32 of 2014/24/EU) as to the circumstances that might give rise to the use the negotiated procedure without prior publication provide a good indication.

It is a basic principle of public procurement that a competitive process should be used unless there are justifiably exceptional circumstances for not doing so, such as those that apply when using the Negotiated Procedure without Prior Publication. In relation to contracts above €25,000 (exclusive of VAT) awarded without a competitive process, Department of Finance Circular 40/02 requires Government Departments to send an Annual Report signed by the Accounting Officer to the Controller and Auditor General explaining why a competitive process was not used. A template for the Annual Report is set out in Circular 40/02. A copy of each Annual Report should be sent to the Policy Unit of the Office of Government Procurement (email: returns@ogp.gov.ie).

2.15 Cancellation Notices

Where a procurement process is cancelled following advertising, a public notice of the cancellation must be published on eTenders. The notice must include the nature of the contract, tender reference number and date, and the wording: - **“Please note this call for competition is now cancelled”**. It should be noted that Louth County Council do not have to

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award a contract on completion of a procurement procedure, and can terminate a procurement procedure at any time. A decision to cancel may be reviewable by the courts if a challenge is taken.

2.16 Framework Agreements

A Framework Agreement is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price, and where appropriate quantity. The most appropriate use of a Framework Agreement is where a contracting authority has a repeated requirement for goods and services but the exact quantities are unknown.

The benefits arising from Framework Agreements include: administrative savings from reduced duplication of tendering; improved consistency; and enhanced service levels. In line with DPER Circular 16/13, public bodies are encouraged to promote the use of Framework Agreements put in place by the OGP or other Central Purchasing Bodies (CPB's) in the Local Authority Sector.

Conditions applicable for Framework Agreements: -

- They can be placed by an individual contracting authority or CPB
- They can be with a single supplier or multiple suppliers
- “mini competitions” may be held between Framework members as required or Framework clients can directly draw-down goods or services in accordance with the rules set out in the Framework Agreement
- The maximum duration is 4 years (unless in exceptional circumstances justified by the subject of the Framework Agreement)
- The terms and criteria for awarding contracts under a Framework Agreement must be published at the outset and must not change, and should include the total value of the scheme/works or service over the length of the framework

2.17 Dynamic Purchasing Systems (DPS)

A DPS is a completely electronic system which may be established by a contracting authority to purchase commonly used goods, works or services which are generally available on the market. It is unlikely to be suitable for once-off, bespoke and/or highly complex requirements. Contracting authorities, including Central Purchasing Bodies such as the LGOPC and the OGP have set up a number of DPS's to assist with the demands from the Public sector bodies. Unlike a framework agreement new suppliers can be added to a Dynamic Purchasing System over its lifetime.

It is a list of qualified firms, established at national or EU level depending on total maximum value of spend over the life of the DPS. It is continuously open for access, with those who qualify being admitted.

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To set up a DPS, a contracting authority must place a Contract Notice in the OJEU to make known the intention to establish a DPS, and suppliers must be allowed at least 30 days to respond. (As with other procedures, contracting authorities may use a Prior Information Notice to make known their intention and reduced time limits may apply in limited other cases.) The initial set-up phase only covers the assessment of Exclusion Grounds and Selection Criteria as used in other two stage procedures. All suppliers who pass this assessment must be admitted to the DPS.

The contracting authority is required to evaluate suppliers' requests within 10 working days of receipt of their responses. This may be extended to 15 days if justified, for example, by the need to examine documents or to verify whether the Selection Criteria have been met. Contracting authorities must ensure participants have unrestricted and full access to all the procurement documents as long as the DPS is in operation.

The minimum timescale for return of tenders is 10 days. Where the contracting authority is a sub-central body, this time limit can be reduced by mutual agreement between the contracting authority and all suppliers in the relevant DPS category.

Contracting authorities can, at any stage during the life of the DPS, ask participants to provide a new or updated ESPD within 5 days of the request. There is a requirement to publish Contract Award Notices within 30 days of award for specific contracts awarded under the DPS. However, contracting authorities can choose to group DPS Contract Award Notices on a quarterly basis, which must be sent within 30 days after the end of each quarter.

2.18 Service Concessions

A service concession is a grant of rights for the exploitation of public land or public property to a private company, in return for services or for a particular use. It is a partnership between the public sector and a private company that has demonstrated its added value in a certain area. An example of a Concession Contract, is a contract that is awarded to a company operating a road toll, where the revenue raised by the toll is used to maintain and operate a section of motorway.

Procurement of such Service Concession Contracts are covered by Directive 2014/23/EU and implemented in Irish Law under S.I. No. 203 of 2017. For this legislation to apply the value of the contract has to be equal to or be greater than the value specified in Table 8 above. They are generally complex contracts of high value and long term that require more flexible rules.

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SECTION 3.0

PUBLIC PROCUREMENT PROCESS

3.0 Public Procurement Process

Public Procurement comprises the award of contracts (formal or informal) for the purchase of supplies, services and works by public bodies. These purchases can range from the acceptance of quotations for small value transactions through to acceptance of tenders for single major projects. Public Procurement rules set out different requirements to be followed depending on the value and type of the proposed contract. Generally, procurement is conducted by seeking quotations or tenders.

A quotation procedure may be used where contract values less than €25,000 for goods and services (€50,000 for works) and centralised purchasing arrangements are not in place. It should be noted that these thresholds apply to the organisation as a whole for the procurement of similar, services or works.

The basic procedures to be followed when seeking low value quotations or tenders which have a value less than €25,000 for Goods and Services, and Works with a value less than €50,000, are set out in Appendix 11 of this document. Quotations may be sought and returned to Departments directly, by post or email. Where quotations are to be submitted by post, an address label should be provided, clearly marked “Quotations” with a description of the procurement competition. This avoids quotations being confused for tender submissions, where more stringent receipting procedures apply. Departments should ensure that Insurance, Tax compliance, and Health & Safety and other basic provisions are considered when seeking quotations.

A tender procedure is used where contract values exceed €25,000 for goods and general services (€50,000 for works) and centralised purchasing arrangements are not in place. The procedures set out in Section 3.2 and Appendix 2 “Procurement Process Checklist”, relate to the running of a full tender process. The running of a tender process under a Framework Agreement may vary depending on what is set out in the instructions to Tenderers and the signed Framework Agreement between qualified suppliers and the contracting authority.

Louth Council is obliged in accordance with National Policy and Circular 16/2013 to consider collaborative procurement opportunities with the OGP, LGOPC (SupplyGov), or with other Local Authorities or Public Bodies during the procurement process. This may require tender activities and contract durations to be arranged in order to align the organisation with OGP plans or other public sector organisation schedules.

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3.1 Centralised Purchasing Arrangements

The Office of Government Procurement (OGP) and Local Government Operational Procurement Centre (LGOPC/SupplyGov), have centralised purchasing arrangements in place for the purchase of certain supplies, services, works or works-related services, for use by the wider public sector.

Louth County Council is eligible to use these framework arrangements and/or contractual arrangements through shared level service agreements. The Project Manager conducting the procurement procedure should check with these centralised procurement departments in the first instance to determine if purchasing opportunities exist before embarking on a publicly advertised procurement procedure. It is council policy to use collaborative arrangements where possible.

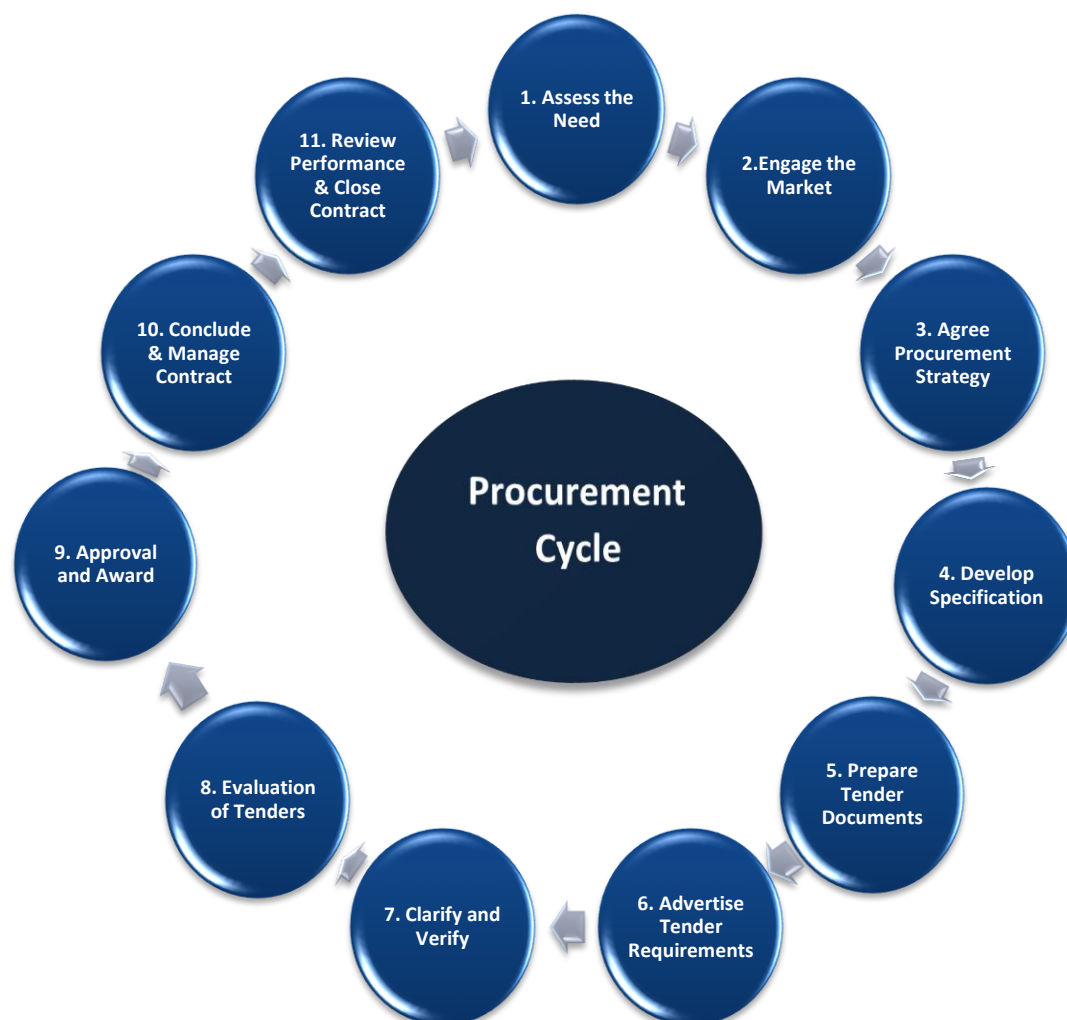
3.2 The Procurement Cycle

A procurement project will follow various stages of a procurement cycle as it proceeds and as outlined below. To assist all employees who are conducting a procurement procedure, a checklist is provided in **Appendix 2** as a guide through the procurement process.

The figure below provides an overview of the procurement cycle / process.

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Figure 4: Overview of Procurement Cycle



3.2.1 Assess the Need Identify the Need/Analyses the Requirement

Each individual Department should have a comprehensive understanding of their purchasing requirements, including existing arrangements with current suppliers. Historical spend data from Agresso/MS4 and previous budget allocations should be used when analysing requirements.

Establish whether there is a clear business-need by preparing a business case demonstrating that the procurement is essential for the conduct of normal business or to improve performance.

When a requirement for supplies, services or works has been identified, a Procurement/Project Manager should be selected by Head of Department to lead the

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procurement project. At this stage an evaluation team should be established which will have responsibility for reviewing the request for tender documents prior to the publication and the evaluation/scoring of tenders when received.

The Project Manager should check that there is sufficient funding/budget availability to meet the value of the proposed procurement and determine the account element, job code and product codes to be used. It is recommended that early contact is made with the Finance Department to set up new codes if required. It is of a particular importance and an essential requirement for proper accountability that the correct product code is selected.

3.2.2 Engage the Market

Market research should be undertaken to gain greater knowledge of the supply market, available options and the number of potential suppliers. Creative solutions and innovative approaches towards existing contracts should be considered. This can be as simple as using an internet search, however it is critical that the project managers make themselves aware of the external market environment and supply chain.

3.2.3 Agree Procurement Strategy

Sourcing Strategy refers to the systematic process aimed at achieved savings and other benefits such as improved supplier performance, quality and risk minimisation. The focus is to gain maximum advantage in terms of cost, process, quality and technology by leveraging the organisations buying power. Consideration should be given to the type and duration of the contract arrangement that would be most appropriate.

This process represents best practice for the establishment of an individual contract or framework agreement for a specific category of spends. The strategy to be used for the purchase of supplies, services and works to meet requirements should be determined only after detailed analysis has been conducted. It is at this stage where the maximum benefits can be achieved from procurement.

3.2.4 Develop Specification (Technical / Scope of Service)

Specifications should be drafted as follows:

- requirement to be stated clearly, concisely and logically
- state the function that the requirement must meet
- allow for equal opportunity
- specification or scope of service to form the basis of the contract
- eliminate the use of brand names

There can be a tendency to over specify the requirements and this can cause additional cost to the overall tender and not achieve Value for Money. The project “needs” should be attained rather the “wants” or “nice-to- have” options. Specifications should be

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performance-based where possible with the option of using variants, therefore allowing for innovative solutions to be proposed. The tender documents should cater for this whenever possible.

3.2.5 Prepare Tender Documents

The Procurement Office can advise the Project Manager of the most appropriate tender documents to be used depending on the nature and value of the procurement project. For above the National threshold of €25,000, for goods and general services contracts, the suite of template documents developed by the OGP should be used – refer to Appendix 15 and 16. The Project Manager should ensure that the most recent revision of these documents is being used. These template documents incorporate the contractual documents and confidentiality agreement which should be completed with the winning tenderer.

Where a tender competition is conducted under a framework agreement (also known as a mini-competition), the tender documents prescribed in the original Framework Agreement must be used.

The Capital Works Management Framework Documents (CWMF) is a structure that has been developed to deliver the Government's objective in relation to public sector construction reform. It consists of a suite of best practice guidance, standard contracts and generic template documents. The aim is to ensure that there is an integrated methodology and consistent approach to the planning, management and delivery of public capital works projects with the objectives of greater cost certainty, better value for money and more efficient project delivery. These template documents must be used for all works/construction projects and works related consultancy above the national threshold of €50,000. Template documentation is available at <https://constructionprocurement.gov.ie/>.

All tender documents should be drafted to make it clear and simple with regard to the tender requirements. This will reduce the need for clarifications and enable the evaluation team to evaluate and score the tenders received on a comparative basis.

3.2.5.1 Selection Criteria (Qualifying Criteria)

Selection criteria must be clearly indicated in the tender documents. Selection criteria tests the suitability of the candidates, and it examines their previous experience and has minimum rules that must be passed in order to proceed further in the evaluation process. Transparent and non-discriminatory selection criteria should be used to test suitability. Selection criteria has two main elements; (i) Economic/Financial and (ii) Technical/Professional, which can include the proof of suitable Insurance, and Health and Safety qualifications and experience. In the Open Procedure, selection criteria are evaluated on a pass/fail basis to decide which candidates are suitable. In the Restricted Procedure, Selection Criteria are usually evaluated on a weighting and scored to decide which candidates should proceed to the tender invitation stage.

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Where a tenderers professional and technical capacity is being evaluated, a contracting authority may request information, (e.g. a list of main services provided by the tenderer over the past 3 years) to show that the tenderer possesses the required professional and technical capacity to carry out the contract and that it possesses the necessary human and technical resources and experience to perform the contract. Where particular profiles of technical ability (i.e. educational and professional qualifications are required), contracting authorities should request copies of the curriculum vitae of the tenderers proposed project team for assessment against the required technical profiles. Contracting authorities can choose to evaluate CVs and people's experience to carry out the required service at either the selection or award stage but **not** at both stages.

The assessment of tenderers economic and financial standing is a key part of any procurement process as Louth County Council must be reasonably satisfied that a contractor will have the necessary economic and financial capacity to carry out any contract which may be awarded. Establishing the appropriate Selection Criteria that are relevant and proportionate to the subject matter is the responsibility for the individual Procurement Project Manager and department. The 2016 Public Sector Regulations provides some guidance on turnover and states that the minimum yearly turnover requirement should not exceed twice the estimated contract value. However, in duly justified circumstances, it is possible to apply higher requirements. But in any event, financial requirements should be proportional to the procurement procedure.

Circular 10/14 requires a "self-declaration" approach for the provision of the necessary financial evidence. This requires documentation to be submitted to the contracting authority when requested upon the completion of the evaluation process but prior to the issue of standstill letters.

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Table 14: Examples of 'Previous Experience' at Selection Stage

Previous Experience		Score
Criteria	Rule or Minimum Level	Pass / Fail
Previous contracts of similar nature successfully delivered during the last 3 years	Tenderers must submit details of successful delivery of at least X number of similar type contracts of a similar size and scale delivered during the last 3 years. Tenderers must provide supporting references for each with comprehensive information to enable assessment of comparability. Details must include (but not limited to): - Client Name - Value of Contract - Dates of Delivery - Frequency of Service - Did contract involve X - Outline how the contract was managed - Detail how you consider this comparable to subject matter of this tender - Contract Manager Name and Contact Details - Deputy Contract Manager Name and Contact Details - Out-of-hours Name and Contact Details	

Table 15: Examples of 'Economic / Financial Criteria' at Selection Stage

Economic / Financial Criteria		Score
Criteria	Rule or Minimum Level	Pass / Fail
Evidence of Turnover/Financial Standing	Demonstrate turnover of €x for the previous x years. Note: Shall not exceed two times the estimated contract value	
Completion of self-declaration form in respect of insurances, tax clearance etc.	Provide evidence or complete self-declaration form (documentary evidence must be provided prior to awarding of contract or including on a tender list)	

Table 16: Examples of 'Technical / Professional Criteria' at Selection Stage

Economic / Financial Criteria		Score
Criteria	Rule or Minimum Level	Pass / Fail
Organisation Details: Skills, Manpower numbers	Provide information confirming access to minimum manpower levels/skills	
Quality Control Systems –ISO standard or equivalent	Provide satisfactory evidence of company Quality Control systems/certificates/accreditations	
Health & Safety Systems – safety statement/policy	Provide satisfactory evidence of Health & Safety statements/certificates/accreditation	

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Table 17: Examples of ‘GPP Criteria’ at Selection Stage

GPP Criteria		Score
Criteria	Rule or Minimum Level	Pass / Fail
Ability to apply environmental measures	EMAS, ISO 14001 or other independent third-party schemes. In-house environmental management systems may also be accepted if they include the specific measures required for the contract	
Technical and Human Capacity	Supply chain management and tracking systems; measures for quality control, experience and qualifications of staff; tools, plant and equipment.	
Previous Experience related to GPP	A list of previous similar contracts carried out over the last 3 years (for supply/service contracts) or the past 5 years for works contracts	

Source: Adapted from EPA

Each of the selection criteria must achieve a pass in order to proceed to evaluation of award criteria.

3.2.5.2 Exclusion Grounds

Exclusions grounds are deemed as mandatory or discretionary.

- i. **Mandatory:** *Article 57 of the EU Directive provides that any candidate or tenderer convicted by final judgement shall be excluded from participation in a tender competition (where the contracting authority is aware of the fact) in the following situations:*

- Participation in a criminal offence
- Corruption
- Fraud
- Terrorist Offence
- Money Laundering
- Child Labour and human-trafficking related offences
- Breach of tax or social security obligations

Where Louth County Council has become aware at a later stage in the process that a tenderer is subject to any of the mandatory Exclusion grounds, the 2016 Public Sector Regulations also allow for Exclusion of the tenderer during the procurement procedure.

- ii. **Discretionary:** Louth County Council has discretion to disqualify candidates for competing in a public procurement competition for the following reasons:
- where the contracting authority can demonstrate violations of environment, social and labour law obligations including rules on accessibility for disabled persons

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- bankruptcy
- insolvency or winding-up procedures
- assets being administered by liquidator or by the Court
- arrangements with creditors
- where the contracting authority can demonstrate grave professional misconduct
- where a contracting authority has sufficiently plausible indications that candidates have entered into agreements with other tenderers aimed at distorting competition
- past poor performance where the candidate has shown significant or persistent deficiencies in a prior public contract which led to termination, damages or other comparable sanctions
- where a conflict of interest cannot be remedied by any less intrusive means
- where a distortion of competition arises from direct or indirect involvement in the preparation of the procurement procedure
- the tenderer has been guilty of serious misrepresentation in supplying information required for the verification of the absence of Exclusion Grounds or the fulfilment of the Selection Criteria, has withheld such information or is not able to submit supporting documents in relation to the ESPD
- where the tenderer has undertaken to unduly influence the decision-making process of the contracting authority or obtained confidential information which may confer upon it undue advantage in the procurement procedure or where the tenderer has negligently provided misleading information that may have a material influence on decisions concerning Exclusion, selection or award.

Project Managers conducting procurement procedures should pay particular attention to the principle of proportionality when applying discretionary Exclusion Grounds.

3.2.5.3 European Single Procurement Document (ESPD)

The “European Single Procurement Document” (ESPD) is a self-declaration form introduced under the 2016 Regulations which allows a tenderer to declare that it is not excluded from a competition on the basis of Exclusion Grounds and that it meets the Selection Criteria that have been set. In general, documentary evidence need only be provided when candidates are provisionally short-listed in a Restricted Procedure or when provisionally identified as the successful tenderer in an Open Procedure.

A tenderer may reuse an ESPD which it has used in a previous procurement where it confirms that the information contained in that ESPD continues to be correct.

The ESPD must be selected for all RFTs on eTenders regardless of value.

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3.2.5.4 Award Criteria

Where a tenderer meets the Selection Criteria, and otherwise meets the requirements set out in the tender documents (i.e. a compliant tender) then their tender is entitled to be given due consideration under the Award Criteria.

The 2016 Public Sector Regulations provide that the contract should be awarded to the MEAT (Most Economically Advantageous Tender). To identify the most economically advantageous tender, the contract award decision should be based on

- price, or
- cost, using a cost-effectiveness approach such as life-cycle costing, or
- the best price-quality ratio to be assessed on the basis of criteria including qualitative, environmental or social aspects, linked to the subject matter of the contract
- quality only where the cost element is a fixed price

Life-cycle costing can be used to encourage more sustainable and/or better value procurements which may save money over the long term although they may appear costlier on the initial purchase price. These criteria will become more prevalent when complying with the requirements of Green Public Procurement.

In relation to quality, the contracting authority is required to adopt criteria linked to the subject matter of the contract which might include the following criteria for goods and general services contracts: -

- delivery date or period of completion
- delivery process
- running costs
- cost effectiveness
- aesthetic and functional characteristics
- accessibility
- design for all users
- technical merit
- after-sales service (e.g. the extent of advisory and replacement services)
- organisation, qualification and experience of staff assigned to performing the contract where the quality of staff assigned can have a significant impact on the level of performance of the contract
- social, environmental and innovative characteristics
- and any relevant factors chosen by the awarding body

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The Capital Works Management Framework (CWMF) provides guidance on Award Criteria for construction related projects when comparing tenders under MEAT criteria, and Louth County Council should consider some or all of the following:

- The values in the Pricing Document
- The tenderer's Works Proposals
- The tenderer's management and supervision structure (if requested)
- The tenderer's proposed working methods (if requested)
- The tenderer's initial programme (if requested)
- Rates for delay costs with % adjustment for costs of labour, material and plant and other items to be tendered in Works Proposals. Where a tendered daily rate(s) for delay has been submitted, tender assessment must include evaluation of tendered daily costs and rates using the stated delay periods
- Rates in a Schedule of Rates
- Variant tender Options
- Credits offered for owner –controlled insurance
- If time is tendered, its impact on tender prices

Award Criteria that relates to technical merit for Works Contracts should include the following:

- Methodology for carrying out the works on the project
- Deployment of resources being made available for a particular project
- Understanding and knowledge of the tender requirements
- Detail as to how the works will be delivered on time
- Risk management
- Communication skills and systems that are to be used to deliver the works
- Approach to health and safety

It is important to state that Award Criteria must be defined in a manner that permits all “Reasonably **Well-Informed** and **Normally Diligent**” tenderers (RWIND standard) to interpret the criteria in the same way.

It is important to clarify and understand the differences in the **Exclusion**, **Selection** and **Award** criteria. Staff conducting a procurement process should not confuse these different types. The three types of criteria correspond to three different steps in the selection of a winning tenderer. They pursue different objectives and are meant to answer three different questions.

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Table 18: Exclusion, Selection and Award Criteria Summary

Exclusion, Selection and Award Summary		
EXCLUSION GROUNDS		Who must be excluded from the procurement procedure
SELECTION CRITERIA		Who is capable of executing the contract
AWARD CRITERIA		Whose proposal will deliver the expected results in the best possible way

When identifying the criteria, staff conducting a procurement procedure should have these questions in mind in order to avoid any confusion and the potential inclusion of inappropriate criteria.

3.2.5.5 Weighting of the Award Criteria

The use of quality criteria means that quality becomes a competition parameter in the tender process alongside price/costs. By providing a weighting to the award criteria ensures that the relative importance of each criterion is clear and unambiguous. By providing an advance disclosure of the weighting and quality price ratio, during a procurement procedure contributes to the transparency in the calculation and evaluation process.

The relative weighting of the quality and price criterion are determined by the Project Manager and should reflect the importance of one criterion to another during the procurement procedure. The higher the weighting provides an indication of the importance that the criterion conveys during the evaluation process and to the successful completion of the project. Typical quality price ratios are shown below, but the final recommendation is a decision for the Project Manager and the Department/Section conducting the procurement procedure.

The tables below provide examples of weighting and scoring criteria. Flexibility can be incorporated as these are examples only. The weighting and scoring criteria must be set and declared at the tendering stage and **cannot** be changed after this point.

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Table 19: Weighting of the Award Criteria Examples – Supplies/General Services Contract

Example of Award Criteria for Supplies/General Services Contract	
Criteria	Weighting
Ultimate Cost	30 - 50%
Quality of Product Offered	5 - 20%
Delivery Schedule Proposed	5 - 20%
Contract Management	5 - 20%
Climate Change / Environmental Controls	5 - 20%
Reliability and Continuity of Supply	5 - 10%

Table 20: Weighting of the Award Criteria Examples – Construction Related Contract

Example of Award Criteria for Construction Related Contract	
Criteria	Weighting
Ultimate Cost	40 - 70%
Relevant Experience	5 - 20%
Past Performance	5 - 20%
Technical Skills	0 - 20%
Resources	0 - 20%
Management Skills	0 - 20%
Methodology	0 - 20%
Climate Change / Environmental Controls	0 - 20%
Reliability and Continuity of Supply	5 - 10%

In conjunction with the weighting criteria, a scoring range is also required to aid compliance with the pillar and key principle of transparency in public procurement. The scoring range is a requirement which has become apparent in the jurisprudence of the courts. The scoring range gives an indication to the tenderers on how the criteria will be assessed and is a key element of the process that provides transparency as well as a fair and equitable process. It also provides the evaluation committee with a guide on how to assess quality criteria allowing for the justification of the scores, and ultimately the awarding of a contract. Each quality criteria must be assessed relative to the information sought and prescribed in the tender documents. Typical rating and scoring ranges are shown in the table below.

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Table 21: Possible Scoring Ranges and Rating Options

Score Range	Rating	Interpretation
90 - 100%	Outstanding	A very comprehensive response, fully meeting or exceeding requirements and demonstrating extensive understanding and offering full assurance – fully supported with no reservations
80 - 89%	Excellent	An excellent response with very few weaknesses, demonstrating excellent understanding and offering assurance – fully supported
70 - 79%	Very Good	A very good response with few weaknesses, demonstrating very good understanding and offering assurance – strongly supported
60 - 69%	Good	A good response demonstrating good understanding and offering reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark
50 - 59%	Acceptable	An acceptable response demonstrating a minimum understanding and lacking full credibility/convincing detail with a significant risk of non-delivery
Less than 50%	Unacceptable	Response demonstrates limited understanding with limited, insufficient or no detail with a risk of non-delivery

A minimum required rating must be specified and it should be clearly outlined that failure of a tenderer to achieve the minimum score(s) will result in elimination from the competition.

Once all quality criteria have been assessed and scored accordingly in conjunction with scoring ranges shown above, the price element must finally be scored. The formula for calculating marks/scores for Goods & Services contracts is shown in the table below.

Table 22: Formula for Calculating Ultimate Costs and Scores for Goods and Services Contracts

Formula	
Marks / Score =	$\frac{\text{Maximum Marks Available} \times \text{Cost of Lowest Valid Tender}}{\text{Cost of Tender being Assessed}}$

N.B

Capital Works Management Framework (CWMF) documents utilize a range of alternative formulae for awarding marks/scores when assessing tender price submissions and are detailed in the Instructions to Tenderers Documents (ITT). These documents should be consulted prior to the evaluation of tender prices.

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3.2.6 Advertisement / Advertise Tender Requirement

Before commencing the Advertisement process for tenders with a value greater than €25,000, all departments must notify the Procurement Office of the impending procurement process and provide details in accordance with the requirements of the Contracts Register.

In accordance with Circular 10/14, all Goods and Services Contracts with a value greater than €25,000 and Works and Works related services with a value greater than €50,000, must be advertised on eTenders, if suitable National Frameworks are not available from either the OGP or the LGOPC. National Procurement Policy recommends that National Frameworks should be consulted before embarking on a procurement process via the eTenders platform. Tender estimates need to be realistic and bona fide, and if pre-tender estimates are in any doubt as to the final outturn costs extending to the National advertised limits, then the procurement process should be publicly advertised.

There are prescribed timescales for advertising tender notices both for above and below the EU threshold, see Section 2 Tables 11 and 12. A set time period for the submission of clarifications by the tenderer and replies to be returned by the Procurement team, should be built into the tender period. More complex procurement procedures or contracts can have longer tender periods than those recommended in the 2016 Public Sector Regulations and National Guidelines.

Louth County Council's policy and best practice for National Tenders is to allow for a minimum of 21 calendar days in order to give tenderers adequate time to submit a tender and to encourage competition from the supply market. This criterion applies to both open and restricted procedures. Shorter timescales may be considered in cases of extreme urgency but only with the prior consultation of the Procurement Office.

The EU Directive 2014/24/EU and the 2016 Public Sector Regulations set the minimum prescribed time periods for the OJEU tenders as per Section 2 and Table 12. The notice for an OJEU value tender, (i.e. with an estimated value above the EU Threshold) must be posted via the Tenders Electronic Daily (TED) and will not appear on the e-Tenders portals for a minimum of 24 hours.

3.2.7 Questions and Clarifications

Tenderers who have queries regarding the procurement process or procurement documentation may seek clarifications via the eTenders platform. The date and time for acceptance of queries should be stated in the RFT or Instructions to Tenders. Clarification/information provided by Louth County Council in response to queries raised by a tenderer should be replied to all candidates using the questions and answers facility on the E-Tenders platform. No other consultation/communication including emails and phone calls should be held with candidates once the tender process is underway. This procedure must be strictly adhered to in order to ensure the principle of equal treatment and transparency is applied thus removing the opportunity for a challenge to the procurement process.

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A contracting authority can, under the 2016 Public Sector Regulations, in certain circumstances request the tender to submit, supplement, clarify or complete information where information submitted by a tenderer appears, to a contracting authority, to be incomplete or erroneous or where specific documents are missing. In this instance, the contracting authority must firstly make contact with the OGP before seeking such clarifications from tenderers. If there is any ambiguity, legal advice in consultation with the Procurement Office should be obtained before Procurement Managers seeks such clarifications from tenderers.

3.2.7.1 Receipt of Tenders

The 2016 Public Sector Regulations proposed that the use of eProcurement becomes mandatory in all procurement procedures on a phased basis. The eTenders platform facilitates this move to eProcurement and those managing procurement processes are expected to facilitate and promote its use.

There are certain circumstances where contracting authorities are not obliged to use electronic means of communication for the procurement process and more details of these situations can be found in the Public Procurement Guidelines for Goods and Services.

Electronic submission of tenders became mandatory except in the following situations:

- due to the specialised nature of the procurement, the use of electronic means of communication would require specific tools, devices or file formats that are not generally available or supported by generally available applications
- the applications supporting file formats that are suitable for the description of the tenders use file formats that cannot be handled by any other open or generally available applications or are under a proprietary licensing scheme and cannot be made available for downloading or remote use by the contracting authority
- the use of electronic means of communication would require specialised office equipment that is not generally available to contracting authorities
- the procurement documents require the submission of physical or scale models which cannot be transmitted using electronic means

Where a contracting authority does not use electronic means of communication for one of the reasons set out above it must indicate in its report of the procurement process the reasons why it did not use electronic communications.

Where tenders' submissions are not provided electronically then they should be submitted in sealed envelopes and delivered to:

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(Relevant Contact Person and Department)

Louth County Council

Millennium Centre

Dundalk

County Louth

A91 KFW6

3.2.7.2 Receipt of Tenders Below National Threshold or Electronic Means is Not Used

Tenders and requests for quotations with an anticipated value of up to €25,000 excluding VAT for goods and services and up to €50,000 excluding VAT for Works should be returned directly to the section dealing with the tender.

Guidelines on the rules in relation to the tender competition should be clearly outlined in the Invitation To Tender (ITT) or the Request for Tenders (RFT). (**NB:** It should be noted that the standard templates which include the ITT and RFTs contained in the Capital Works Management Framework and the Office of Government Procurement respectively can vary depending on the type of procurement process, and may not apply for these low value procurement processes.)

The outside envelope of box that contains the tender should clearly identify:

- The title of the tender
- The name of the person to whom the tender is to be returned (The DOS or SEO of the Department)
- The receipt address
- The date and the time for receipt of tenders
- The tenders should also be requested to put their name and address on the outside of the tender submission in case their tender is to be returned to unopened otherwise the tender may have to be opened to identify the tender

Tenders must have a “Return Date” from Monday – Friday, and a time must be specified. The time for receipt of tenders is usually 12.00 noon or 4.00p.m. Tenders are regarded as having been received when they are **date and time stamped** at main reception at County hall (Millennium Building) or at the relevant department (where applicable). The receipt signature and a receipt time are recorded on the tender envelope or box. A receipt should be given to the tenderer if requested. When tenders received at main reception they are to be forwarded to the relevant department immediately. If a tender arrives late, it should be processed in the same manner at this stage and marked “Late”.

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3.2.7.3 Public Works Contracts and Works Related Services Contracts

For Public Works Contracts there are eight choices of “Instructions to Tenderers’ depending on:

- (a) the procedure being used (i.e. open or restricted)
- (b) the type of contract being awarded

The instructions set out the:

- documents to be included in the Contract (e.g. The Works Requirements, the Form of Tender and Schedule, the Pricing Document and where relevant the Design Documents)
- the documents not to be included in the Contract (e.g. the Invitation letter, the instructions etc.)

Public Works are typically procured on the basis of lump sum, fixed price contracts. Where Bills of Quantities are used for Civil Engineering Works, the tender is the lump sum offer and the rates are used only for valuing variations. In some circumstances the price assessment is not just the tender sum; but an adjustment comparative cost of tender is calculated to account for other commercial criteria. The rules regarding balancing of rates, correction of errors and inconsistencies are set out at Section 8 in the Instruction to Tenderers.

Standard Forms of Tender are completed by tenderers for works contracts as part of their tender submission and includes details relating to the tenderers offer (including the lump sum). The schedule is the part of the Contract that specifies the particular details relating to a particular project. Depending on the contract, the Schedule has one or two parts i.e.: -

- For PW-CF1 to PW-CF5 – the schedule has two parts with the Employer completing Part 1 of the Schedule before tenders are invited and includes it with the form of tender and the tender completes Part 2 and submits it with the completed form of tender and its other tender documents
- For PW-CF6 – PW-CF8 and PW-CF11 (FTSS12 & FTS13 for reserved specialists) – the Schedule is one part only which the Employer completes before tenders are invited and includes it with the Form of Tender.

There are four choices of “Instructions to Tenderers’ for Works Related Services Contract, and these are detailed as ITTS 1a, ITTS 1b, ITTS 2a and ITTS 2B.

For works related services contracts there are two model Forms of Tender and Schedules

FTS 9 – Form of Tender and Schedule, Consultancy Services

FTS 10 – Form of Tender and Schedule, Archaeology Services

Model Forms are also available for the following

MF 2.1 – Professional Indemnity Insurance Certificate

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MF 2.2 – Letter of Acceptance

MF 2.3 – Collateral Warranty

MF 2.4 – H&S Compliance Declaration by all General Service Provides

MF 2.5 – H&S Compliance Declaration by PSDP

MF 2.6 – H&S Compliance Declaration by PSCS

Template documents can be found at www.constructionprocurement.gov.ie and guidance notes (GN) contained within the website include:

GN 1.4: Procurement & Contract Strategy for Public Works Contracts

GN 1.6: Procurement Process for Consultancy Services

GN 2.3: Procurement Process for Works Contractors

3.2.7.4 Opening and Examination of Tenders

The need for a formal opening procedure for tenders arises from the need to demonstrate transparency. The section that originated the tender competition should provide the personnel to retrieve and open the tenders. At least two people should be in attendance when the tenders are retrieved and opened, comprising of the project manager and a staff member of Grade 6 or above.

This condition also applies when opening tenders on the eTenders portal where two names are required to access the envelope that stores the submitted tenders. Once the response date has passed two people must log on to e-Tenders and open the tenders electronically. Once both parties have opened the tenders, the documents are available to view and download. The system retains an audit trail of who opens the tenders and subsequently reviews the documents.

A schedule of the relevant documents (e.g. declarations, form of tender, pricing schedule etc.) relating to the tender should be provided to the tender opening team. All responsive tenders should be examined to ensure that these documents have been submitted and completed correctly. Each document should be signed and dated by the tender opening team.

All tenders are then recorded in the official Tender Receipt Document. The title of the tender should be recorded. Each tender should be given a number and checked for its return date and time.

Record all details as outlined in Appendix 12.

If any tender is recorded as having been delivered after the closing date and/or time for receipt of tenders, then that tender should not be opened. The tender is still given a number and entered onto the schedule in the Tender Receipt Document, but is noted as being late. Late tenders should not be opened unless there is no other means of identifying the name

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and address of the tenderer on the outside of the tender envelope or box. Once all tenders have been opened and recorded in the Tender Receipt Document, the document should be signed by all people in attendance. The relevant Tender Receipt Document should be kept on the Departments Procurement file for the purpose of transparency and good record management. Late tenderers should be contacted by the relevant section to inform them that their tender was late and documents returned to them.

A report on details of any tenders rejected and the reasons for the rejection should be produced – refer to Appendix 12.

3.2.8 Evaluation of Tenders

Evaluation of tender submissions is one of the more complex and significant parts of any procurement process, and central to this process is the formulation and application of suitable award criteria. The most important general principles of Public Procurement Law that apply to tender evaluation are: -

- Transparency
- Proportionality
- Equality; and
- Non-discrimination

The importance of the treaty principles highlighted above is reflected in Article 18 of Directive 2014/24/EU which states:

*18.(1) “contracting authorities shall treat economic operators **equally and without discrimination and shall act in a transparent and proportionate manner**” (emphasis added)*

To ensure compliance with the regulations Louth County Council must conduct an objective evaluation of tenders on the basis of the most economically advantageous tender criterion in a transparent manner. The recommended best practice is to have the evaluation carried out by a team with the requisite competency, which should have the required professional qualifications and experience to assess the competency and exercise judgment in the following:

- (a) The process by which each economic operator and tender will be assessed
- (b) The criteria for selection and evaluation
- (c) The regulatory environment and policy on public procurement; and
- (d) The subject matter of the contract

Tenders must be evaluated objectively and transparently against the published (selection and award) evaluation criteria. Objectivity and transparency is best achieved by the use of a scoring system or marking sheet based on the published criteria and weightings (discussed earlier). The cornerstone of any evaluation process is the award criteria. A failure to adequately disclose the criteria or to formulate the criteria in a clear and precise manner can

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expose Louth County to the risk of a challenge. It is well documented that flawed evaluations constitute the most common ground for alleged infringements in the procurement process.

The Project Manager conducting the procurement process is responsible for the administration of the evaluation process and for presenting the recommendation of the valuation team to the Director of Services (or delegated person). The most common panel size is likely to be three, but in some instances there may be many more than that, particularly where much technical and specific knowledge and experience of the panel is more likely to give a score that fairly reflects the tender. The size, make up and experience of the panel should reflect the scale and complexity of the procurement including the degree of specialist input required. The panel should have chair person who should ensure that notes and scores are properly recorded and retained. It is recommended that a number of strengths and weaknesses of the quality submissions are recorded and referenced when awarding final scores and when determining the relative advantages of the winning tenderer.

3.2.8.1 Conflict of Interest (COI)

Article 24 of the EU Directive expressly provides that:

“Member states shall ensure that contracting authorities take appropriate measures to effectively prevent, identify and remedy conflicts of interests arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.”

Article 24 further provides:

*“..The concept of conflicts of interest shall at least cover any situation where staff members of the contracting authority or of **procurement service provider** acting on behalf of the contracting authority who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.” emphasis added*

To ensure compliance with the Public Sector Regulations and Regulation 24, Louth Council requires that all members of a tender evaluation committee, which may include both employees of Louth County Council and any third-party consultants engaged by the Council complete a Conflict of Interest and Confidentiality Agreement prior to the commencement of the process. A template of the agreement is included as **Appendix 3**. This is an essential step in the conduction of an evaluation process and ensures transparency in the process.

In summary, some guidance on the best practice on the make-up of an evaluation panel and steps to follow, is as follows:

- (a) a panel should be made up of at least 3 members (it is recommended that an odd number of people (and more than 1) evaluate tenders in the interest of transparency, and fair treatment for both the tenderer and the evaluators)

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- (b) the panel chairman should be appointed ensure that notes and scores are properly recorded and kept.
- (c) before commencing the evaluation process all panel member must sign the Conflict of Interest and Confidentiality Agreement – refer to Appendix 3
- (d) the panel members must have the collective knowledge, competency and qualifications to mark all tenders with regard to the suitability, selection and award criteria, and score accordingly.
- (e) the panel members must be reminded that they are to use their professional judgement to mark the tender against the published criteria and no matter what their previous experiences may have been, both good and bad, they must approach the task with an open mind
- (f) the duty to treat all tenders equally must be given particular attention

Finally, the process by which an evaluation process conducts its business is a solemn one (i.e. must be completed with sincerity, dignity, and honesty) and each member of the evaluation panel ought to represent and observe the solemnity of the process. This concept was introduced in a recent court case by Mr. Justice Mc Closkey, and should be borne in mind by all participants of the evaluation committee.

Mr. Justice Mc Closkey stated in *Resources (NI) v NICTS*

“I interpose here the observation that, under the current statutory and jurisprudential regime, meetings of contract procurement evaluation panels are something considerably greater than merely formal events. They are solemn exercises of critical importance to economic operators and the public and must be designed, constructed and transacted in such a manner to ensure the full effect is given to the overarching procurement rules and principles.”

3.2.9 Approval and Award Contract

The value of contract which requires a Chief Executive Order is decided by CE and SMT. Notwithstanding, it is recommended that for all contracts above €25,000 (for Goods/General Services) and above €50,000 (for Works), a Chief Executive Order or Delegated Order must be completed where a decision is made to accept a tender/award a contract, thereby authorising the issue of notification letters to tenderers.

The engagement of ALL consultants requires a CE order regardless of value.

A “recommendation to award” a contract must precede the Chief Executive Order and should be approved by the Senior Executive Officer (or analogous) grade – refer to Appendix 13.

The CE Order/Delegated Order must contain the following:

- eTenders reference
- Description of competition as advertised

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- Name and address of successful tenderer
- Outline of the tender process used
- Recommendation of evaluation team
- Details of contract value and duration

If an exact contract value cannot be determined at the outset, an estimated maximum contract value should be provided.

3.2.9.1 Notification to Tenderers (Standstill Letters)

As soon as possible after the award decision has been taken, the contracting authority must inform all tenderers of the outcome. All tenderers must be informed of the outcome of the competition at the same time. Model letters or templates are provided by the OGP and are often referred to as “standstill letters”.

Table 23: Model Letters for Above EU Thresholds – Open Competition

Scenario	Model Letter to be Used	Title of Letter	Link (to follow)
Non-compliant tenders and tenderers who do not meet the selection criteria	Letter 1, Letter 2 and Letter 3	Model Letter 1: Letter to Non-Compliant Tenderer or a Tenderer who does not meet the Selection Criteria (where notification is sent before the award decision is made)	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%201%20-%20Non-Compliant%20Tender Fails%20S election.docx
		Model Letter 2: Standstill letter to Non-Compliant Tenderer or a Tenderer who does not meet the Selection Criteria and who has previously been notified	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%202%20-%20Non-Compliant%20Tender Fails%20S election.docx
		Model Letter 3: Letter to Non-Compliant Tenderer and/or Tenderers who have not met the Selection Criteria who have not previously been notified	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%203%20-%20Non-Compliant%20Tender Fails%20S election%20.docx
Contracting Authority seeking documentary evidence from tenderers (ESPD)	Letter 4	Model Letter 4: Letter to the Highest Ranking Tenderer seeking documentary evidence prior to award decision	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%204%20-%20%20Highest%20Rank%20Seeking%20Document%20Evidence.docx
Tenderer fails to qualify on the evidence it has submitted	Letter 5	Model Letter 5: Letter notifying Tenderer who fails to qualify on evidence submitted	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%205%20-%20Fails%20to%20Qualify%20on%20Evidence%20Submitted.docx
Unsuccessful Tenderer	Letter 6	Model Letter 6: Standstill Notice to Unsuccessful Tenderer	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%206%20-%20Standstill%20to%20Unsuccessful%20.docx
Successful Tenderer	Letter 7	Model Letter 7: Letter to the Preferred Tenderer (Successful Tenderer)	http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Model%20Letter%207%20-%20Successful%20Tender.docx

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Louth County Council must inform the preferred tenderer that it has been identified as the most economically advantageous tenderer, while at the same time notifying all unsuccessful tenderers. The standstill period is 14 days where the notice is sent electronically or 16 days where the letter is sent by post. The standstill period will not commence until all relevant letters have been dispatched. This period is designed to ensure that the procedures which have been followed are open to review before the conclusion of a contract. A contract cannot be concluded during the standstill period.

A compliant standstill letter should include the following information:

- The award criteria
- The name of the successful tenderer
- The score of the recipient
- The score of the successful tenderer
- Details of the reason for the decision, including the characteristics and relative advantages of the successful tenderer
- Confirmation of the date before which the contracting authority will not enter into the contract or Framework Agreement (i.e., the date after the end of the standstill period)

Appendix 8 contains a set of model letters for use in relation to above threshold competitions for notifying successful and unsuccessful tenderers in a procurement process.

Although not mandatory for below threshold contracts, providing some standstill period is suggested for best practice. It is recommended that a standstill period of between 5-7 days is provided before finalising a contract, therefore offering some period for review by an unsuccessful tenderer. Similar model letters detailed in Appendix 8 may be used for contracts below the EU threshold, as they provide a useful template for providing transparency and equal treatment in the award process.

Tenderers who do not meet the minimum Selection and/or Award criteria are deemed “Inadmissible” under Public Procurement Rules and are subject to different notification requirements where they should be provided with:

- name of the successful tenderer
- their own scores only
- reasons for failure to qualify
- the specific section(s) in the RFT being relied upon
- List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT

The table below shows an example of the types of reasons that are acceptable to provide and unacceptable to provide.

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Table 24: Examples of Acceptable and Unacceptable Reasons to Tenderers

Acceptable Reason	Unacceptable Reason
	
The winners product consumes less energy per hour	The winner was better
The winner provided a 5 year warranty over your 3 year warranty	You were cheaper but the winner was better
While you offered an annual review, the winner offered a dedicated contract manager and quarterly reviews	You offered an annual review

3.2.9.2 Formal or Informal Debriefing of Tenderers

Formal or informal debriefing of candidates/tenderers is not recommended as all necessary information required to be given should be set out in the written notification issued to them via the standstill letters at the conclusion of the tender competition.

The holding of informal or formal debriefing meetings increases the risk of introducing new information and breaching the principle of transparency and equal treatment. If any new information (other than that contained in the notification/standstill letters) is provided it may thereby delay the expiry of the standstill period and the subsequent award of the contract.

3.2.9.3 Post Tender Correspondence for Works and Works-Related Services

The Capital Management Framework (CWMF) comprises various best practice guidance, standard contracts and generic template documents for the procurement of public sector and related services contract, and documentation is available at [constructionprocurement.gov.ie](https://www.constructionprocurement.gov.ie)

On conclusion of a tender competition, a letter of intent can be forwarded to the lowest tenderer requesting information that is needed to finalise a contract and enable the letter of acceptance to be sent and returned, thus finalising the contract agreement. Details requested in a letter of intent may include insurance, details, tax clearance, bond information, confirmation of PSDP etc.

In the case of drawdown contracts under the terms of a Framework Agreement the prescribed drawdown contracts must be put in place. Service level agreements may also be required for certain procurements.

The responsibility and management of a contract is the responsibility of the Project Manager for the procurement process and the relevant Director of Service.

3.2.9.4 Tax Compliance and Insurance Compliance

It is a condition of a contract award that the successful tenderer(s) shall, for the term of such contract(s), comply with all EU and domestic tax laws. Prior to the award of a contract, the successful tenderer is required to supply its Tax Clearance Access Number and Tax Reference

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Number to facilitate online verification of its tax status by the contracting authority. By supplying these numbers, the successful tenderer acknowledges and agrees that Louth County Council has the permission of the successful tenderer to verify its tax cleared position online.

It is a requirement for all contracts undertaken by Louth County Council that economic operators confirm that they have the correct level of Public, Employers and/or Professional Liability if required, or other such insurances which are deemed by the contracting authority to be applicable to the contract. The limits of professional liability can vary depending on the risk profile of the procurement process. The required Public and Employers liability limits are currently €6.5m PL and €12.7m EL respectively.

Brexit will affect the validity of insurance cover provided by UK insurers in the Republic of Ireland. This will have an impact on those economic operators who provide general services, supplies, works contracts or consultancy services for Louth County Council and who have insurance policies underwritten by UK insurers. The impact of the UK departure has implications for existing and future procurement processes and new contracts. Irish Public Bodies have advised that as a result of Brexit: -

- Any insurance policy which renewed on or after the 1st January 2021 with a UK domiciled Insurer will not be permitted in the ROI. This may result in the failure of such policies to pay claims. Tenderers insurers must be listed by the Central Bank of Ireland (CBI) as an authorised insurer for this jurisdiction (Republic of Ireland)
- Any insurance policies which were in force prior to the 1st January 2021 with a UK domiciled Insurer will remain valid (solely for the purposes of paying claims) for a period of 15 years

For economic operators which are primarily based in the Republic of Ireland, most if not all UK based insurers will have moved such insurances to an EEA authorised entity within their group at this stage. However, the location of where their insurer is based should still be reviewed out of caution before a contract is completed.

For Northern Ireland or UK based economic operators, greater vigilance is required, particularly where the start date of the cover is on or after the 1st January 2021.

Going forward it is recommended that all Project Managers who have responsibility for procurement must ensure that all insurances provided by economic operators engaged by Louth County Council must be authorized for the jurisdiction of the Republic of Ireland. It is requirement that all procurement documentation explicitly states this requirement in the tender documentation under “insurance requirements of the contracts”. Verification of the validity of insurances in ROI should be checked before entering into a contract.

Further information in relation to Insurance requirements Post Brexit are detailed in Appendix 6.

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3.2.9.5 Contract Award Notices

The Project Manager is responsible for ensuring a Contract Award Notice (CAN) is posted on eTenders within 30 days of the award. The Procurement Office should also be notified.

3.2.10 Conclude and Manage Contract

After the expiry of the standstill period, Louth County Council must initiate and sign a written agreement setting out the terms and conditions of the contract and this must be signed by the tenderer prior to commencement of the services. This is to establish that there is a clear understanding between the parties in respect of their agreement and will mitigate against disputes arising during the performance of a contract.

For Goods and General Services Contracts, the contract is completed by the successful tenderer signing the necessary contract documentation which is included in the template documents produced by the OGP for Goods and General Services – refer to Appendix 15 and 16.

As construction works relate to a process then unlike a goods and general services contract, a number of documents make up the contract and can include the following documents for high value contracts: -

- Letter of Agreement, consisting of offer and acceptance
- Contract Conditions
- The Schedule
- The Works Requirements
- The Pricing Document
- The Works Proposals
- Any novated design documents
- Collateral Warranty

3.2.10.1 Contract Modification

The extension of a contract either in value or duration may place the council at risk of non-compliance with Public Procurement Rules. The 2016 Public Sector Regulations sets out a number of conditions or “safe harbours” when contracts can be modified during the life of a contract without the need for a new procurement procedure. It is recommended that Project Managers seek legal advice when modifying contracts by relying on one or more of the safe harbours identified in Regulation 72 of the 2016 Public Sector Regulations.

3.2.10.2 Verifiable Audit Trail and Retention of Records

Accurate written records (including computer records), are essential and of particular importance in procurement and must be retained for audit purposes (for e.g. to provide compliance with Public Spending Code obligations) or if needed in the event of litigation. They demonstrate that ethical standards have been observed and the treaty principles which

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underpin public procurement law and which include transparency, equal treatment, proportionality and non-discrimination have been complied with.

Article 84 of the 2014 EU Directive, directs contracting authorities to complete a verifiable audit trail, by keeping sufficient documentation to justify decisions taken in all procurement procedures including internal deliberations. Article 84 outlines the obligation of contracting authorities, and makes it a clear action of a contracting authority to issue a report, justifying the reason of the procedure chosen, any conflicts of interest, and *inter alia*, reason for rejections of the unsuccessful tenderers. To ensure accuracy in compiling the Article 84 report (or Post Tender Evaluation Report) and ensure compliance with the Directive, it is essential to document the opinions expressed by the evaluation committee, in order to provide a verifiable audit trail of the process; thus adhering to the principle of transparency.

3.2.11 Review Performance and Close Contract

Appendix 4 details the content of a post tender Evaluation Report that complies with the requirement of Article 84 and should be completed by the Project Manager conducting the Procurement Process on completion of the tender evaluation process.

It is important also, that records are kept throughout the contract phase. A contract should be actively managed and monitored by the contracting authority. Active involvement in the management of the contract is essential to maximize value for money and assess the performance of the service provider/contractor. For contracts with a value in excess of the threshold which are applicable to the rules of the Public Spending Code, contracting authorities must provide Post Project Reviews.

The following are standard steps that should be followed in managing a contract: -

- Ensure that there are regular procedures for reporting and for identifying inadequacies/poor performance and appropriate remedial action such as regular recorded meetings
- Have procedures for checking goods or services against the contract specification
- Maintain a record of the performance of the service provider/contractor, providing written evidence of underperformance and seeking improvement
- Review the whole procurement process and contract phase at the conclusion of the contract during the “Post Project Review” for those contracts that have values applicable to the requirements of the Public Spending Code. This review should assess the performance of the contracting department as well as the contractor or service provider – refer to Appendix 5

Contract Managers should ensure that all existing contracts are actively managed to ensure the supplier’s performance and conformity with the specification of requirements is being adhered to. Any underperformance must be discussed with the supplier and formally recorded.

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3.3 The Procurement Process Overview

A summary of the procurement process is shown in each of the figures below, capturing:

- Goods/Supplies and Services
- Works
- Works-Related Services

Figure 5: Procurement Process Overview for Goods/Supplies and Services

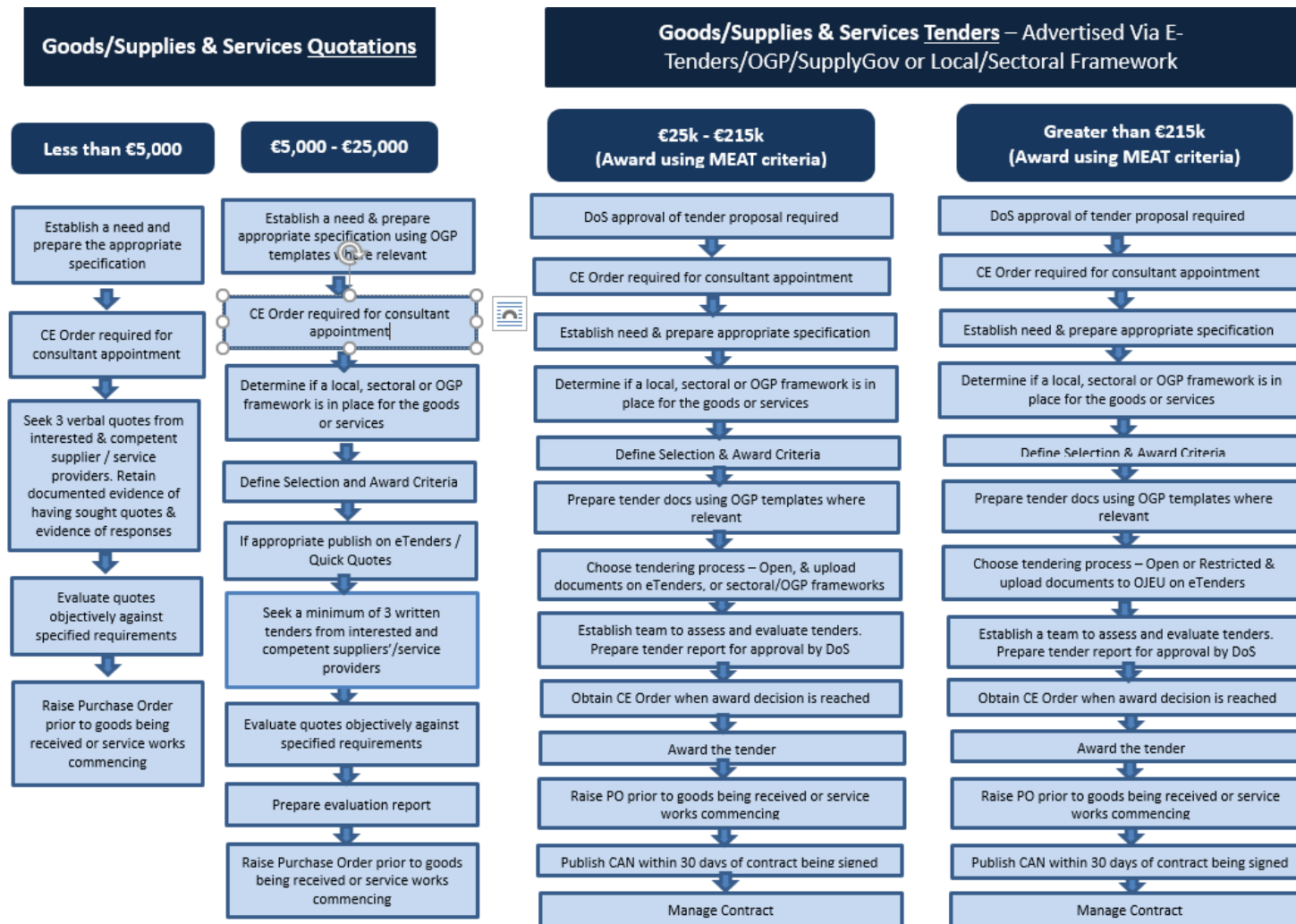


Figure 6: Procurement Process Overview for Works Contracts

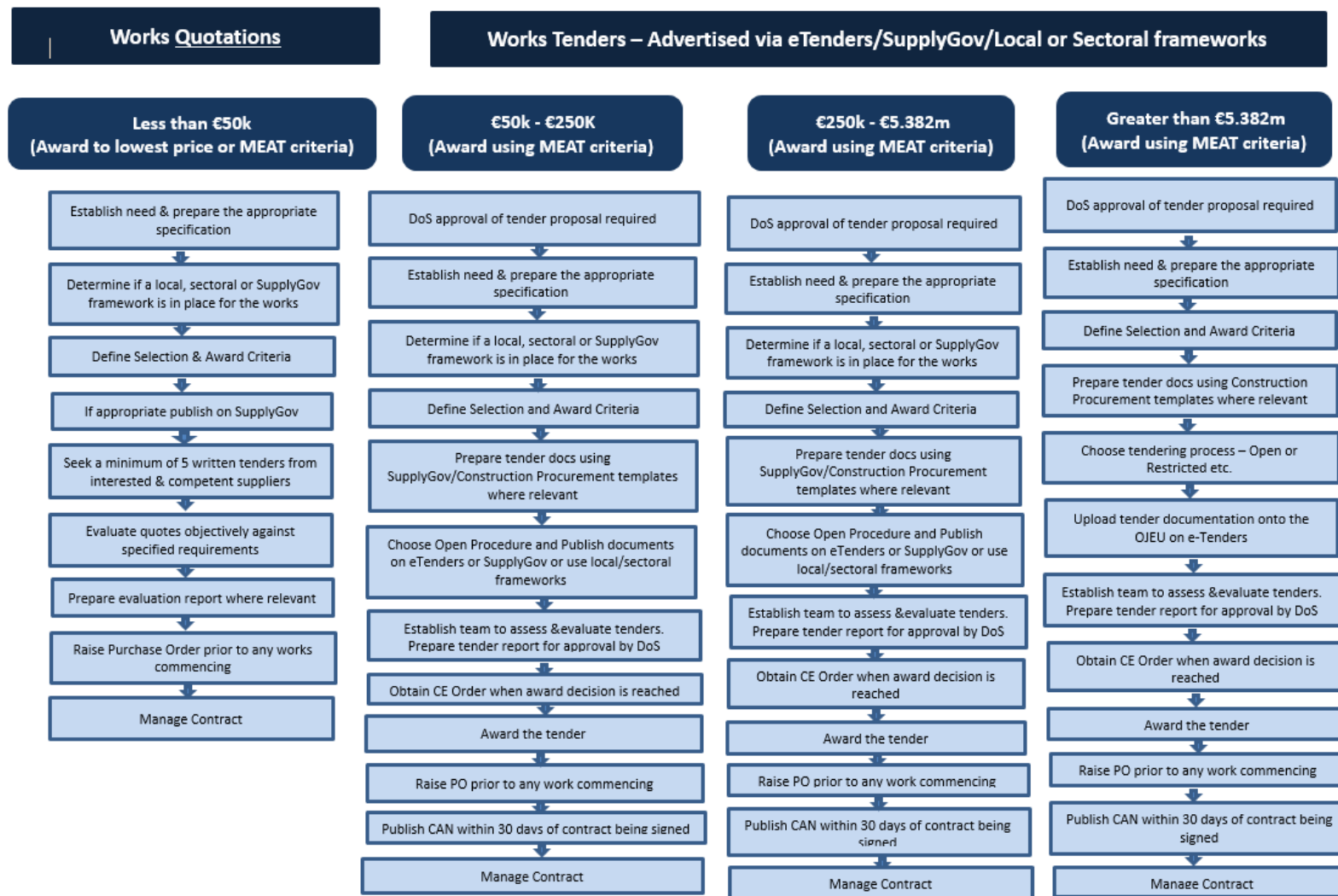
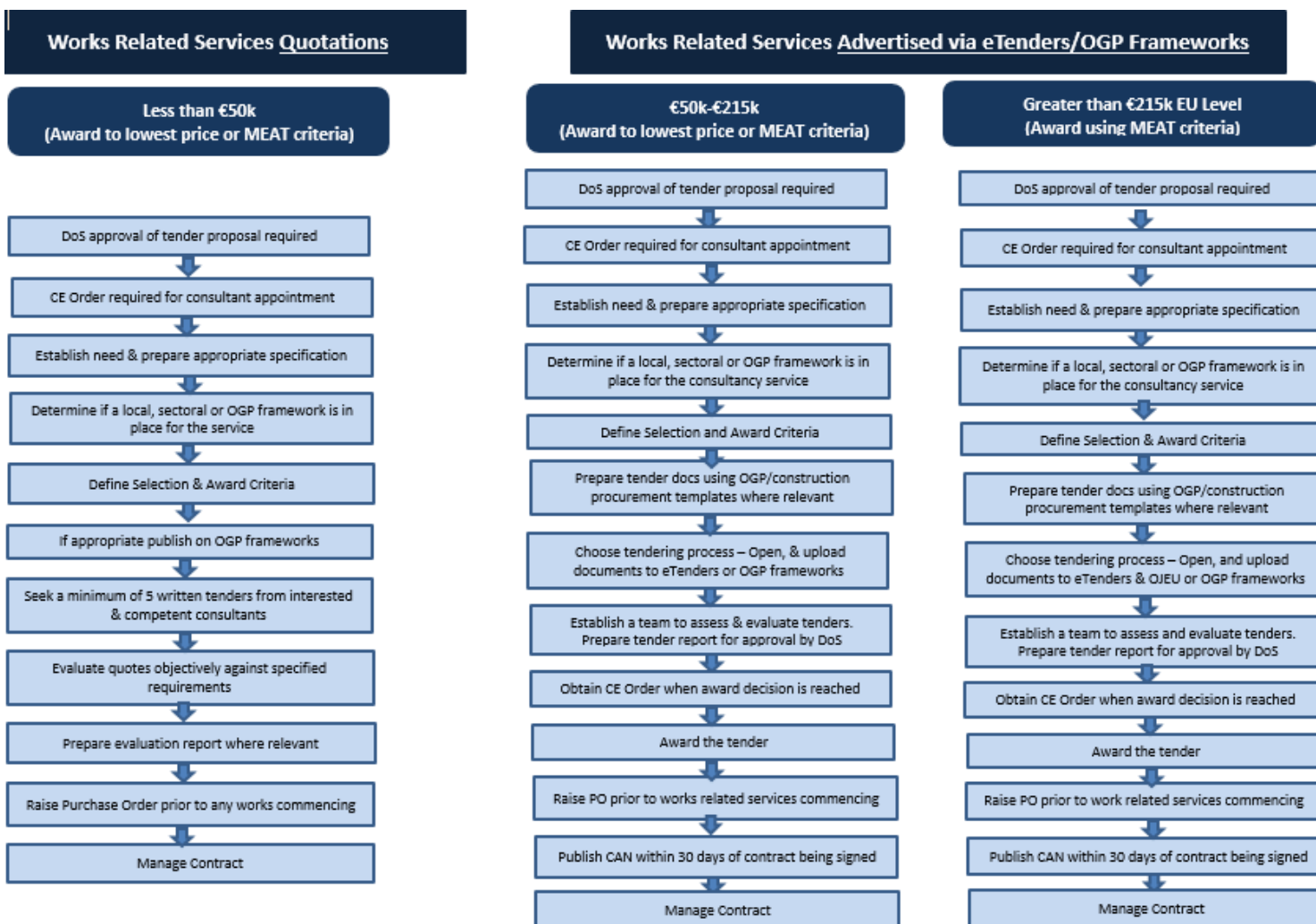


Figure 7: Procurement Process Overview for Works-Related Services



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SECTION 4.0

TABLE OF ACRONYMS

Acronym	Meaning
ADV	Anticipated Disposal Value
CA	Contracting Authority
CAN	Contract Award Notice
CBI	Central Bank of Ireland
CE	Chief Executive
COI	Conflict of Interest
CPB	Central Purchasing Body
CPV	Common Procurement Vocabulary
CPWN	Competitive Procedure With Negotiation
CWMF	Capital Works Management Framework
DOS	Director Of Service
DPER	Department of Public Expenditure and Reform
DPS	Dynamic Purchasing Systems
EMAS	Eco-Management and Audit Scheme
EOI	Expressions of Interest
ESPD	European Single Procurement Document
EU	European Union
FOI	Freedom of Information
GDPR	General Data Protection Regulations
GN	Guidance Note
GPP	Green Public Procurement
IPB	Irish Public Bodies
ISO	International Standards Organisation
ITT	Invitation To Tender (OGP)
ITT	Instructions to Tender (CWMF)
LA	Local Authority
LCA	Life-Cycle Analysis
LCC	Life-Cycle Costing
LGMA	Local Government Management Agency

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Acronym	Meaning
LGOPC	Local Government Operational Procurement
LGSPC	Local Government Strategic Procurement
MEAT	Most Economically Advantageous Tender
N/A	Non Applicable
NAGF	Notification to Activate Goods Framework
NAGSF	Notification to Activate Goods and Services Framework
NASF	Notification to Activate Services Framework
OGP	Office of Government Procurement
OJEU	Official Journal of the European Union
PIN	Prior Information Notice
PPE	Personal Protective Equipment
PSC	Public Spending Code
PPP	Public Private Partnerships
RFQ	Request For Quotation
RFT	Request For Tender
RWIND	Reasonably Well-Informed and Normally Diligent
SAQ	Suitability Assessment Questionnaire
SAR	Strategic Assessment Report
SME	Small and Medium Enterprises
SMT	Senior Management Team
SEO	Senior Executive Officer
sRFT	Supplementary Request For Tender
TCA	Trade and Cooperation Agreement
T/A	Trading As
TED	Tenders Electronic Daily
VAT	Value Added Tax
VFM	Value For Money
VFM	Value For Money

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Appendix 1

Appendix 1: Procurement Approval Levels and Authorisation Thresholds

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Appendix 1 in Policies and Procedures Manual

Re: Purchase Order / Contract Approval Limits

Purchase Order Approval Limits (Exclusive of VAT), applicable from introduction of MS4

Purchase Order Limits		
Level	Approver Grade	Approval Limit per Order
Level 1	Grade 6 / Grade 7 and analogous technical grades. (May change depending on staff set up in section)	€10,000
Level 2	Grade 8/ Senior Executive Officer and analogous technical grades	€10,001 - €100,000
Level 3	Director of Service	€100,001 - €1000,000 ¹
Level 4	Chief Executive	>€1,000,000

Note: ¹ This amount can be amended by CE order for specific projects, with evidence available

Consultant Engagement	
Approver Grade	Approval Limit per Order
Chief Executive	CE Order required for the engagement of ALL consultants, regardless of value

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Appendix 2

Appendix 2: Checklist to be followed when Conducting a Public Procurement Process

Link to Current Version:
http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Procurement%20Processes%20Checklist%20v01%20-%20App%202.docx

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Appendix 3

Appendix 3: Conflict of Interest Declaration

Link to Current Version:
http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Conflict%20of%20Interest%20and%20Confidentiality%20Declaration%20v01.docx

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Appendix 4

Appendix 4: Tender Evaluation Report Format

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Appendix 4 in Policies and Procedures Manual

Tender ID	
Evaluation Committee Names	
Date of Report	
Tender Evaluation Report Format <i>(In accordance with Article 84 of 2014 Directive)</i>	1. Introduction a. Name and address of the contracting authority b. Composition of the evaluation committee c. Timetable of the procurement procedure 2. Background and context a. Description of the contract (subject matter and value) b. Choice of the procedure and justification in the cases of competitive procedures with negotiation, competitive dialogue and negotiated procedure without prior publication. c. Appointment of the members of the evaluation committee. d. Published criteria e. List of tenderers 3. Evaluation activities a. Assessment of exclusion grounds b. Assessment of selection criteria c. Evaluation of tenders d. Clarifications (if applicable) 4. Recommendation for the award of the contract a. Final scoring and ranking b. Proposed candidate(s) or tenderer(s) (including subcontractors and their corresponding shares, if any) and justification c. Unsuccessful candidate(s) or tenderer(s) and justification d. Rejection of abnormally low tenders and justification e. Where applicable, reasons why the contracting authority has decided not to award a contract f. Where applicable, reasons why other means of communication than electronic means have been used for submitting tenders g. Where applicable, conflicts of interests detected and measures taken 5. Annexes a. Evaluation matrix(ces) b. List(s) of attendance at evaluation meeting(s) c. Signed declarations of absence of conflict of interest and confidentiality d. Other relevant documents (e.g. clarifications, working papers)

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Appendix 5

Appendix 5: Post Project Review Form

Link to Current Version:
http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Post%20Project%20Review%20v01%20-%20App%205.docx

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Appendix 6

Appendix 6: Guidance on the Impact of Brexit on UK-based Insurers



Contractors Insurances - Guidance on the impact of Brexit on UK based insurers

Introduction

This document outlines the impact Brexit has on the insurance cover provided by UK insurers in the Republic of Ireland. It specifically deals with the impact on the insurances of your vendors (suppliers, contractors or consultants) in relation to existing contracts as well as future implications on procurement and new contracts with vendors.

Key Points

As result of Brexit,

- any insurance policies which are renewed on or after 01 January 2021 with a UK domiciled Insurer will not be permitted in the ROI. This may result in a failure of such policies to pay claims.
- any insurance policies which were in force prior to 01 January 2021 with a UK domiciled Insurer will remain valid (solely for the purposes of paying claims) for a period of 15 years.

For vendors which are primarily based in the Republic of Ireland, most if not all UK based insurers will have moved such insurances to an EEA authorised entity within their group at this stage. However, the location of where their insurer is based should still be reviewed out of caution.

For Northern Ireland or UK based vendors, greater vigilance is required, particularly where the start date of cover is on or after on 01 January 2021.

Future Procurement

It should go without saying that that insurances provided by vendors must be authorised for this jurisdiction. However, given that current scenario with Brexit, we recommend that your organisation explicitly state this both in any tender documentation as well as, where permitted, within the insurance requirements of the contract.

Central Bank of Ireland (CBI) Register

The CBI maintain an up to date list of all non-life Insurers regulated by the CBI as well as a list of non-life insurers authorised to operate on a Freedom of Services basis. It is recorded [here](#) under the section called "Register of Life and Non-Life Insurance Undertakings".

Checking of insurances

In the event that insurance details are submitted from what appear to be from a UK domiciled insurer with cover dates on or after 01 January 2021, you should

1. Check the CBI Register that the insurer is authorised to write this business in the Republic of Ireland.
2. If the insurer cannot be found on the register, then you should seek:
 - a. written confirmation from the vendors insurers that they have the appropriate authorisation for this jurisdiction
 - b. clarification from the vendors insurers as to why they are not listed by the CBI as an authorised insurer.

Contractors Advisory Service

As always, the IPB Contractors Advisory Service is available to assist you on any specific queries you have on any of the above aspects.

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Appendix - Further Information

Freedom of Services

Under Freedom of Services agreements, authorised EEA¹ insurers are permitted to write insurance in other EEA states. In the context of Ireland, it was not unusual for Irish entities to have their insurances arranged through UK domiciled insurers. Indeed, for vendors based in Northern Ireland, this was the norm.

Following the conclusion of negotiations on a Withdrawal Agreement, the UK left the EU on 31 January 2020. However, EU rules and regulations continue to apply to the UK until the end of the transition period on 31 December 2020. This includes rules permitting authorised UK Insurers to continue exercising a “passporting” right to carry on writing insurance in other EEA Member States.

However, these Insurers shall not be allowed to write new business or renewals with cover start dates on or after 01 January 2021. It should be noted that this will apply irrespective of whether or not a deal is agreed in the current trade negotiations as freedom of services for Insurers does not form part of the current discussions.

The 15 Year Run-Off Period

On 9 September 2020, the Government published new legislation², as part of its preparations for the end of the transition period. Part 10 of the proposed legislation allows Insurers that are authorised in the UK and which had previously passported into Ireland to continue to operate in Ireland for specific and limited purposes. This is for a 15-year period from 01 January 2021 and is subject to the fulfilment of certain conditions.

The “specific and limited purposes” referred to above effectively means dealing with the handling of claims. This is to allow UK Insurers to fulfil its contractual obligations to its Irish customers following the end of the transition period on 31 December 2020.

However, as mentioned above such Insurers will not be authorised to write new business or renewal any policies from 01 January 2021.

¹ The European Economic Area (EEA) includes EU countries and also Iceland, Liechtenstein, and Norway

² the General Scheme of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2020 (the “General Scheme”)

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Appendix 7

Appendix 7: Documents to be Retained for PSC Compliance

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http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/PSC_Public%20Spending%20Code_Document%20Checklist%20v01%20-%20App%207.docx

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Appendix 8

Appendix 8: Model Letters

Model Letter 1: Letter to Non-Compliant Tenderer or a Tenderer who does not meet the Selection Criteria (where notification is sent before the award decision is made)

FOR USE IN AN OPEN PROCEDURE

Company name

Address

RE: Competition ref.

Competition for

Dear,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition

[THE TWO SENTENCES BELOW ARE ALTERNATIVES. CHOOSE ONE AND DELETE THE OTHER.]

Your tender was deemed non-compliant with the terms of the Request for Tender (RFT) dated ____ day of _____ 201__ because of:

[OR]

Your tender did not meet the Selection Criteria as set out in the Request for Tenders (RFT) dated ____ day of _____ 201__ because of:

Insert the following:

- i) reason for failure to qualify**
- ii) the specific section(s) in the RFT being relied upon and**
- iii) List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT.**

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

Note 1: *After the award decision is made please send Model Letter 2*

Note 2: *Please delete as appropriate the "either/ or" text which is not relevant to your letter.*

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Model Letter 2: Standstill letter to Non-Compliant Tenderer or a Tenderer who does not meet the Selection Criteria and who has previously been notified

FOR USE IN AN OPEN PROCEDURE

Company name

Address

RE: Competition ref.

Competition for

Dear,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and to my letter of the [date] informing you that your tender was not successful on this occasion and setting out the reasons why your tender was not successful. I enclose a copy of my letter for your convenience.

The decision reached by [insert contracting authority] is that the tender received from [company] is the most economically advantageous tender.

Please note that the [insert contracting authority] will not conclude a contract with [insert company name of company identified as successful tenderer] until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (S.I. 130 of 2010 and S.I. 192 of 2015).

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

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Model Letter 3: Letter to Non-Compliant Tenderer and/or Tenderers who have not met the Selection Criteria who have not previously been notified

FOR USE IN AN OPEN PROCEDURE

Company name

Address

RE: Competition ref.

Competition for

Dear [insert name],

I refer to your company's tender submitted on [date] in respect of the above mentioned competition

[THE TWO SENTENCES BELOW ARE ALTERNATIVE. CHOOSE ONE AND DELETE THE OTHER.]

Your tender was deemed non-compliant with the terms of the Request for Tender (RFT) dated ____ day of ____ 201__ because of:

[OR]

Your tender did not meet the Selection Criteria as set out in the Request for Tenders (RFT) dated ____ day of ____ 201__ because of

[Insert the following:

- i) reason for failure to qualify
- ii) the specific section(s) in the RFT being relied upon and
- iii) List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT]

The decision reached by [insert name of contracting authority] is that the tender received from [company] is the most economically advantageous tender.

Please note that the [insert name of contracting authority] will not conclude a contract with [insert name of successful tenderer] until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (SI 130 of 2010 and S.I 192 of 2015).

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

Note: *Please delete as appropriate the "either/ or" text which is not relevant to your letter.*

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Model Letter 4: Letter to the Highest Ranking Tenderer seeking documentary evidence prior to award decision

FOR USE IN AN OPEN PROCEDURE

Company name

Address

RE: Competition ref.

Competition for

SUBJECT TO CONTRACT / CONTRACT DENIED

Dear,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition.

I wish to inform you that, subject to your providing us with (i) evidence sufficient to demonstrate your fulfilment of the Selection Criteria (or any one of them) and (ii) the absence of Exclusion Grounds (Declaration in the form attached at Appendix 5 of the RFT) in accordance with the terms of the RFT, your tender has been identified by the [insert name of the contracting authority] as the most economically advantageous.

We now invite you to provide the evidence of qualification as required in part [insert], section [insert] of the Request for Tenders (RFT) dated ____ day of ____ 201_. This evidence should be provided as soon as possible but in any event no later than [insert the date by which the evidence must be produced]. If we do not receive a satisfactory response to this letter on or before this date, we reserve the right to exclude your tender from further consideration.

Please note that no commitment of any kind, contractual or otherwise will exist unless and until a formal written contract has been executed for and on behalf of [insert contracting authority]. The provisional identification of your tender as the most economically advantageous does not and will not give rise to any enforceable rights. In any event, the [insert contracting authority] will impose a standstill period and will not conclude a contract until on or after the standstill period is expired. Please note that this letter is not a standstill notice and no standstill period has yet commenced.

The [insert contracting authority] may cancel this public procurement competition at any time prior to a formal written contract being executed for and on [his / her / its] behalf.

Yours etc.

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Model Letter 5: Letter notifying Tenderer who fails to qualify on evidence submitted

FOR USE IN AN OPEN PROCEDURE

Company name

Address

RE: Competition ref.

Competition for

Dear.....,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition. **[THE TWO SENTENCES BELOW ARE ALTERNATIVE. CHOOSE ONE AND DELETE THE OTHER.]**

I refer to your letter dated [date]. After assessment of the evidence submitted with your letter I regret to inform you that your tender failed to qualify because of:

[Insert the following:

- i) reason for failure to qualify**
- ii) the specific section(s) in the RFT being relied upon and**
- iii) List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT.]**

[Or]

It is noted that you have not furnished a reply to our letter of [insert date] within the time specified and therefore I regret to inform you that your tender has been excluded from this tender competition.

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

Note: *Please delete as appropriate the “either/ or” text which is not relevant to your letter.*

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Model Letter 6: Standstill Notice to Unsuccessful Tenderer

FOR USE IN AN OPEN PROCEDURE

Company name

Address

RE: Competition ref.

Competition for

Dear [insert name],

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I regret to inform you that your tender was not successful on this occasion.

The decision reached by [insert contracting authority] is that the tender received from [company] is the [most economically advantageous tender.

Please note that the [insert contracting authority] will not conclude a contract with [insert company name of company identified as successful tenderer] until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (SI 130 of 2010 and S.I 192 of 2015).

The following table sets out the score obtained by your tender, the score obtained by the successful tenderer in respect of each of the award criteria and the characteristics and relative advantages of the successful tenderer as compared with your tender:

Award Criteria	Maximum marks available	Marks awarded to successful tender	Marks awarded to your tender	Characteristics and Relative advantages

Yours etc.

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Model Letter 7: Letter to the Preferred Tenderer (Successful Tenderer)

FOR USE IN AN OPEN PROCEDURE

Company name

Address

SUBJECT TO CONTRACT / CONTRACT DENIED

RE: Competition ref

Competition for

Dear

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I am pleased to inform you that your tender has been identified by the [insert contracting authority] as the most economically advantageous.

The [insert name of contracting authority] will not conclude a contract with your company until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (S.I. 130 of 2010 and S.I 192 of 2015).

Please note that no commitment of any kind, contractual or otherwise will exist unless and until a formal written contract has been executed for and on behalf of [insert name of contracting authority]. The identification of your tender as the most economically advantageous does not and will not give rise to any enforceable rights.

The [insert name of contracting authority] may cancel this public procurement competition at any time prior to a formal written contract being executed for and on [his / her / its] behalf.

I wish to take this opportunity to remind you that in line with the terms of the Request for Tenders, [insert appropriate text if additional documentary or other evidence is required in addition to the TCC] your company will be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of your tax status by [insert name of contracting authority].

Yours etc.

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Model Letter (Below Threshold)

Letter to the Preferred Tenderer (Successful Tenderer)

Company name

Address

SUBJECT TO CONTRACT / CONTRACT DENIED

RE: Competition ref

Competition for

Dear

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I am pleased to inform you that your tender has been identified by the [insert name of contracting authority] as the most economically advantageous.

Please note that no commitment of any kind, contractual or otherwise will exist unless and until a formal written contract has been executed for and on behalf of [insert name of contracting authority]. The identification of your tender as the most economically advantageous does not and will not give rise to any enforceable rights.

The [insert name of contracting authority] may cancel this public procurement competition at any time prior to a formal written contract being executed for and on [his / her / its] behalf.

I wish to take this opportunity to remind you that in line with the terms of the Request for Tenders, [insert appropriate text if additional documentary or other evidence is required in addition to the TCC] your company will be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of your tax status by [insert name of contracting authority].

Yours etc.

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Model Letter (Below Threshold)

NOTICE TO UNSUCCESSFUL TENDERER AT EVALUATION STAGE

Company name

Address

RE: Competition ref.

Competition for

Dear [insert name],

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I regret to inform you that your tender was not successful on this occasion.

The decision reached by [insert contracting authority] is that the tender received from [company] is the [most economically advantageous/lowest price] tender.

Please note that the [insert contracting authority] will not conclude a contract with [insert company name of company identified as successful tenderer] until on or after [date].

The following table sets the characteristics and relative advantages of the successful tenderer as compared with your tender:

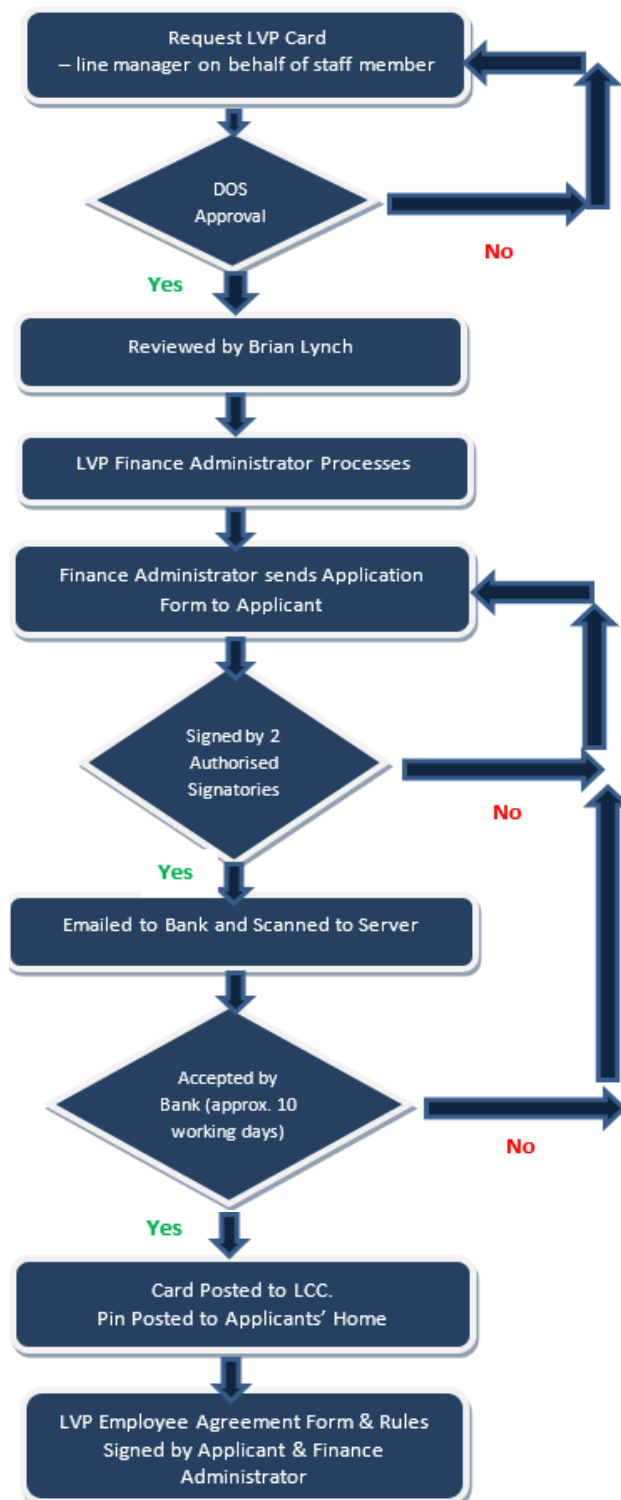
Award Criteria	Maximum marks available	Marks awarded to successful tender	Marks awarded to your tender	Characteristics and Relative advantages

Yours etc.

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Appendix 9

Appendix 9: Overview of LVP Application Process



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Appendix 10

Appendix 10: Procedure for Disposal of Assets

	Procedure for the Disposal of Assets		Ref. No.:	P/PROC-05
			Issue Date:	04 th May 2022
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Preamble

This procedure details the processes governing the Disposal of Assets of different types and the granting of access to property or infrastructure.

It is Council's policy to operate in a fair, open and transparent fashion and, obtain value for money, for Council, while ensuring that the core business objectives of Council and its subsidiaries are not compromised

Anticipated

The Anticipated Disposal Value (ADV) may be defined as a genuine pre-estimate of the value that would be obtained in the market-place. Estimating the ADV is critical to this Disposal of Assets Procedure as this determines which disposal method is utilised and is an indicator as to whether value for money is being obtained or not.

The Disposing Section may, at their discretion, require any of the following to be used to determine the Anticipated Disposal Value

- Price recorded in the company accounts books (book value)
- Independent valuation
- Valuation by Council staff with expertise, such staff having no other connection to the proposed disposal
- Reference to recent similar sales, where a bid process was used
- Reference to market prices for these products

It should be noted that the book value may differ significantly from the price that may be obtained in the market place at a given point in time. In determining the ADV the following should be taken into account:

- Age
- Condition
- Replacement Price
- Second hand market price
- Depreciation/Appreciation profile (e.g. Art, property etc.)

Authority to Dispose of Assets

Assets shall be disposed only following approval from Head of Finance.

In addition, the principle of avoiding Conflict of Interest, and the Segregation of Duties shall be adhered to at all times.

Staff, who are involved in the Proposal or Approval of a disposal must:

- Have no other interest in the disposal
- Not be a direct report to anyone with an interest in the disposal

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Staff who are involved in the processing of the Sales Process shall be appointed with due consideration to the segregation of duties (i.e. at no stage should one person have authorisation to carry out all steps in the sales transaction).

Disposal of Assets Process.

The disposal of assets shall be in accordance with the approval structure. These procedures are formulated to ensure openness, transparency and value for money, with approval controls proportionate to the anticipated disposal value.

Each disposal shall be processed using an Agresso Purchase Order and will include, as a minimum, information on

- The Grouping to which the buyer belongs (e.g. staff member, third party, charitable organisation, director, etc.)
- A description of the asset including its conditions
- The price paid
- The name and address of the buyer
- This register shall be available for inspection, if requested.

Reports

The Director of Service in each area shall prepare reports for the Head of Finance on an annual basis.

Disposal to Non-profit making Organisations

From time to time Council disposes of assets to non-profit making charitable/community/ heritage groups. The Council may dispose of assets at a price lower than the ADV without seeking market prices to these non-profit organisations as a contribution to Corporate Social Responsibility.

Authority to set the disposal price and to approve the disposal to such organisation shall be by Chief Executives Order.

Notes:

1. Assets with negative disposal value should be assessed using the same value thresholds
2. Assets include Scrap materials, furniture, stock, equipment, machines, vehicles etc.
3. In all cases, there shall be a Segregation of Duties whereby one person can only invoke one of the functions listed above on any given transaction.
4. Before committing to disposal by auction prior approval at the appropriate level is required.

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Appendix 11

Appendix 11: RFQ (Request For Quotation) Process Summary

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Procedure for the Purchase of: Goods & Services <€25,000
Works and Works-Related Projects < €50,000

1. Prepare and Issue Request for Quotation documents

Prior to preparing a RFQ ensure there is sufficient budget and that sanction (where necessary) has been obtained

All RFQs must include a sufficient description of the goods/services or works were possible

All RFQs must include a pricing document, including item description and quantities, unit rates and sum amount, where relevant.

The RFQ must state the rules of the procedure including the criteria for awarding the contract.

The RFQ must be issued to at least 3 bidders when sourcing goods/services, and 5 bidders when seeking quotations for works and works-related projects

All RFQs must be marked returnable to the person that issued the request by post or email on or before a closing date and time. Sufficient time should be allowed to permit suppliers to prepare and submit a competitive quotation

2. Evaluate Quotations

The procurement manager with at least one other staff member should evaluate the quotations received, and retain files of the quotations for audit and record keeping purposes. Where the lowest priced quotation is not being recommended, a justification note should accompany the quotation.

3. Email unsuccessful bidders

The procurement manager should inform all unsuccessful bidders in writing as soon as possible on not being awarded the contract giving full supporting reasons. This is important to ensure that all concerned have accurate information in case of any dispute arising in the future.

4. Create and Issue the Purchase Order (PO)

The procurement manager then arranges to have a purchase order raised. The requisition is approved in accordance with appropriate approval levels and issues to the successful supplier/contractor.

5. Record Keeping and Monitor Service Delivery

The procurement manager should maintain records of the procurement procedure, including details of the submissions and quotations tendered. The procurement manager should monitor the quality of the goods and performance of the service provider or contractor, and take any necessary action as and when required in order to secure value for money for Louth County Council.

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Appendix 12

Appendix 12: Tender Receipt Document

Link to Current Version:
http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Tender%20Receipt%20Document%20v01%20-App%2012.docx

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Appendix 13

Appendix 13: Template Document for CE Order and Recommendation to Award a Contract

Link to Current Version: http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/Template%20Doc%20for%20CE%20Order%20and%20Reccommendation%20to%20Award%20Contract.docx

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Appendix 14

Appendix 14: Public Spending Code

A Guide to Evaluating, Planning and Managing Public Investment

Link to Current Version:
http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/PSC_Public%20Spending%20Code_Document%20Checklist%20v01%20-%20App%207.docx



An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

Public Spending Code

A Guide to Evaluating,
Planning and Managing
Public Investment

Investment Projects and Programmes Office:
www.gov.ie/en/publication/public-spending-code

December 2019

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Appendix 15

Appendix 15: Request for Tenders Documentation – for Goods/Supplies only

Link to Current Version:
http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/RFT%20Goods_Supplies%20OGP%20Template%2030112020%20-%20downloaded%2004.05.22.docx

GoodsRFT30112020

Request for Tenders dated

for the supply of

Tender procedure: Open procedure

Tender Deadline:

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Appendix 16

Appendix 16: Request for Tenders Documentation – for Services only

Link to Current Version: http://lcc-lanet/procure/Shared%20Documents/Procurements%20Documents/RFT%20Services%20OGP%20template%2030112020%20-%20downloaded%2004.05.22.docx

ServicesRFT30112020

**Request for Tenders dated [insert date]
for the provision of
[Insert type of Services required]**

Tender procedure: Open procedure

Tender Deadline [insert date and Time]

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Appendix 17

Appendix 17: CWMF Guidance Note 2.3 Procurement Process for Works Contracts

Link to Current Version:
https://constructionprocurement.gov.ie/wp-content/uploads/GN-2.3-v1.3-27-06-2018.pdf

Capital Works Management Framework
Guidance Note

Procurement Process for Works Contractors

GN 2.3

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Appendix 18

Appendix 18: CWMF Guidance Note 1.6 Procurement Process for Consultancy Services (Technical)

Link to Current Version:
https://constructionprocurement.gov.ie/wp-content/uploads/GN-1.6-v1.2-17-1-12.pdf

Capital Works Management Framework
Guidance Note

**Procurement Process for Consultancy Services
(Technical)**

GN 1.6

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Appendix 19

Appendix 19: The Open Procedure Process Flow Summary



Regulation 84 (1) of the Public Contracts Regulations 2015 **requires every Contracting Authority to create a written report for most procurements where a standard OJEU procedure is used.**

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Appendix 20

Appendix 20: The Restricted Procedure Process Flow Summary



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Appendix 21

Appendix 21: The Competitive Procedure with Negotiation Process Flow Summary



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Appendix 22

Appendix 22: The Competitive Dialogue Procedure Process Flow Summary



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Appendix 23

Appendix 23: The Innovative Partnership Procedure Process Flow Summary

