Instruction to Tenderers

for

The Service	Kilkenny City Centre Vibrant Streets West

using the

Open Procedure for CONSULTANCY SERVICES
FOR USE WITH THE CONDITIONS OF ENGAGEMENT FOR CONSULTANCY SERVICES
WHERE HOURLY RATES ARE TO BE TENDERED

Office of Government Procurement

Instructions to Tenderers using the Open Procedure
for Consultancy Services for the use with the Conditions of Engagement
for Consultancy Services where Hourly Rates are to be Tendered

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Preface

The Contracting Authority is making these documents available to Applicants for the Services Contract identified in the Particulars, for tendering purposes only. These documents must not be used for any other purpose.

In no circumstances shall the Contracting Authority, its advisers, consultants, servants and/or agents incur any liability or responsibility for the legality, validity, effectiveness, adequacy or enforceability of any documentation executed, or which may be executed, in relation to the Services. Any costs associated with the submission of a tender are the sole responsibility of the Applicant and will not be reimbursed.

This Invitation to Tender will not be part of any Contract.

These documents are being made available by the Contracting Authority to Applicants on the terms set out in these Instructions. These documents are not being distributed to the public and have not been filed, registered or approved in any jurisdiction. Possession or use of these documents in any manner contrary to any applicable law is expressly prohibited. Applicants shall inform themselves concerning and shall observe any applicable legal requirements.

No reliance shall be placed on any information or statements contained in these documents, and no representation or warranty, express or implied, is or will be made in relation to such information. Without prejudice to the foregoing, neither the Contracting Authority nor its advisers, consultants, contractors, servants and/or agents shall have any liability or responsibility in relation to the legality, validity, effectiveness, enforceability, accuracy, adequacy or completeness of such information or any statements made in relation to such Services. Applicants must make their own assessment of the adequacy, accuracy, and completeness of these documents.

Applicants should note that any reference in these Instructions to a notional capital value for the project or a notional number of hours for additional services is purely for the purposes of assessment, as described in section 9 of these Instructions. The Contracting Authority makes no representation that such figures are an accurate estimate of the value of the project or the number of hours of additional services that may be required (if any). Applicants shall not be entitled to a change in any tendered rates or prices should the actual value of the project or the actual number of hours of additional services be higher or lower than the notional figure contained herein.

The information does not purport to be comprehensive or to have been independently verified.

The Contracting Authority reserves the right to amend these Instructions, its requirements and any information contained herein at any time by making any such amendments available to all Applicants.

Nothing in these Instructions is, nor shall be relied upon as, a promise or representation as to the Contracting Authority's ultimate decision in relation to the award of the contract for the services the subject of the contract (the "**Services**") (the "**Contract**"). However, the Contracting Authority reserves the right to take such steps as it considers appropriate, including (but not limited to):

- changing the basis of, or the procedures (including the timetable) relating to, the tender process;
- rejecting any, or all, of the tenders;

- not inviting a Tenderer to proceed further;
- not furnishing an Applicant with additional information; or
- abandoning the competition.

Nothing contained in these Instructions is, or shall be relied upon as, a representation of fact or promise as to the future. Any summaries or descriptions of documents or contractual arrangements contained in any part of these Instructions cannot be and are not intended to be comprehensive, nor any substitute for the underlying documentation (whether existing or to be concluded in the future), and are in all respects qualified in their entirety by reference to them.

No legal relationship or other obligation shall arise between any Tenderer and the Contracting Authority including in respect of the Competition (except for the Tenderer's irrevocable offer to be bound by its tender for the period stated) unless and until the Contract has been entered into by issue of the Letter of Acceptance and the successful Tenderer and any conditions precedent to its effectiveness have been fulfilled. The Contracting Authority shall not be obliged to appoint any of the Tenderers to undertake the Services and the Contracting Authority reserves the right not to proceed with the award process and to withdraw from the process at any time. No contract to be entered into with the successful Tenderer will contain any representation or warranty in respect of these Instructions.

Applicants must treat these Instructions, their tenders, and their participation in this competition as confidential. Applicants must not disclose any information about this competition to anyone other than to those who have a legitimate need to know or whom they need to consult for the purpose of tendering, and then only on a confidential basis, or as required by law. Applicants shall promptly return these Instructions to the Contracting Authority upon request.

The Contracting Authority is entitled to disclose to any person any information about this competition, including the identity of the Applicants and details of their respective members, the Services, the tender process or the award of the Contract (including, without limitation, details of the contract price) at any time.

If an Applicant considers that information it supplies is commercially sensitive or confidential, this should be clearly stated and clear and substantive reasons should be given. Representations as to confidentiality or commercial sensitivity should give a time after which the information may be disclosed; this would not normally exceed 5 years.

The Contracting Authority will have regard to such a statement in considering a request for access to the information under the Freedom of Information Act 2014 (or any other legislation relating to disclosure of information) but is not bound by the Applicant's view. The requirements of applicable law shall supersede the stated requirements of the parties.

All exchanges shall be kept confidential by the Applicant and its advisors, consultants, contractors, servants and agents. Applicants may also be asked to enter into undertakings of confidentiality should it become appropriate to release confidential information to them.

It will be a condition of the award of the contract that the successful Tenderer shall, for the term of the contract, comply with all applicable EU and domestic tax laws. Prior to the award of the Contract arising out of this Competition the successful Tenderer shall be required to supply its Tax

Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority. By supplying these numbers the successful Tenderer acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online. Applicants may obtain information regarding their obligations concerning taxation from the Revenue Commissioners (*www.revenue.ie*)

References to these Instructions in this section includes all information contained in these Instructions, their accompanying documentation, and any information and/or opinions made available during the tender period by or on behalf of the Contracting Authority, its advisers, consultants, contractors, servants and/or agents in connection with these Instructions or the Services including, without limitation, information made available in response to any queries

Irish law is applicable to these Instructions. The Irish courts shall have exclusive jurisdiction in relation to any disputes arising from these Instructions.

The Applicant's attention is drawn to the Competition Act 2002 - 2019 (as may be amended from time to time) which makes it a criminal offence to collude on prices or terms in a public procurement competition.

Applicants must not make any assumptions that the Contracting Authority has prior knowledge of their organisation or service provision. Tenderers will only be evaluated on the information contained in their Tender (as may be clarified in accordance with these Instructions).

Each Applicant's acceptance of delivery of these Instructions (by whatever means they were received) constitutes its agreement to, and acceptance of, the terms set forth in the Preface.

1 Introduction

1.1 This procedure

The Contracting Authority has sent a contract notice and tender documents for the Services to etenders and where appropriate a similar notice has been simultaneously sent to the Office for Official Publications of the EC for publication in the OJEU. The notice and tender documents are addressed to all those who wish to participate in a tender competition for the Services described in the "Particulars".

These documents set out the award criteria and the award process which will be followed by the Contracting Authority in making the assessment of whether Applicants are suitable to provide the Services and, from those Applicants deemed to be suitable, which tender is the most economically advantageous. These documents also set out the information which must be supplied by Applicants. Tenders must be submitted in accordance with these Instructions. Any tenders not complying with these Instructions may be rejected by the Contracting Authority, whose decision in the matter shall be final.

1.2 These documents

The documents at (i) and (ii) below are available to all Applicants:

(i) The following documents (when fully completed by the relevant parties), and any amendments to them which have been issued (e.g. pursuant to section 2.2), will be included in the contract:

- The Conditions of Engagement
- Form of Tender and Schedules A and B attached
- Any content of other documents identified in Schedule A
- Where required, a request for the detailed breakdown of the tender price.
- Details of quality submission required.

Also included in the Contract but not part of the documentation being made available to Applicants is the Letter of Acceptance which the Contracting Authority will issue at award stage. Any post tender clarifications that are to be part of the Contract will be included in that letter.

(ii) All other documents, including *Documents for information purposes only* issued to Applicants, will not form part of the Contract. This includes (but is not limited to):

- The invitation letter
- Suitability Assessment Questionnaires
- These Instructions
- Any information submitted with tenders and not called for in these Instructions or in post-tender clarifications.

1.3 The Conditions for Contract Award

It will be a condition precedent to appointment that the Consultant:

(a) shall provide proof in the form of completed MF 2.1 or proof in a form otherwise agreed by the Contracting Authority that the insurances required by the Contract (see Section 2.19 of Schedule A of the Conditions of Engagement) are in place;

(b) shall produce promptly evidence of tax clearance;

(c) shall where indicated in the Particulars or as otherwise agreed with the Contracting Authority provide sub-consultants' appointments to the Contracting Authority for approval and furnish the Contracting Authority with certified copies of such appointments when approved and with duly executed collateral warranties given by such sub-consultants in favour of the Contracting Authority (where required).

(d) shall, where requested by the Contracting Authority, furnish the Contracting Authority with a duly executed reliance guarantee[1] and/or collateral warranties[2], and/or reliance warranties[3] (in each case where applicable) given by entities upon whose resources the successful Tenderer has relied upon for the purpose of meeting any of the suitability criteria applicable in this Competition

(e) [Insert any others as applicable]

1.4 Data Protection

As part of this Competition, the Applicant may (at various stages) provide personal data relating to the Applicant or its organisation, employees or other third parties. In this Suitability Assessment Questionnaire ("this Questionnaire"), "Data Protection Laws" means all applicable data protection law including, with effect from 25 May 2018, the General Data Protection Regulation (Regulation (EU) 2016/679) and the Data Protection Act 2018; and the terms 'personal data', 'process', 'controller', 'processor' and 'data subject' shall have the meanings given to them under Data Protection Law.

Where the Applicant provides personal data relating to third parties, the Applicant must ensure that such third parties are made aware of the contents of this Data Protection Notice in full.

The Applicant, as controller in respect of any personal data provided by it as part of this competition, is required to confirm in the declaration required under Appendix 1 to this Questionnaire that all data subjects whose personal data is provided by the Applicant have consented to the processing of such personal data by the Applicant, the Contracting Authority, the evaluation team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the applicant in this competition or that the Applicant otherwise has a legal basis for providing such personal data to the Contracting Authority for the purposes of its participation in this competition.

Where such personal data is provided, the relevant controller is the Contracting Authority. If there are any questions about the Contracting Authority's use of such personal data, please contact the Contracting Authority's Data Protection Officer whose details are available upon request to the Contracting Authority.

The Contracting Authority may process the following personal data as part of this competition:

- name;
- contact details;
- CV details (including but not limited to qualifications, education, experience, previous roles and responsibilities);
- details of proposed role(s) and responsibilities on this contract;
- referee details; and
- any other data provided by the Applicant.

[1] in the form of MF 2.9 Reliance Guarantee. The Contracting Authority may accept alternate arrangements, in place of a guarantee, at its discretion.
[2] in the form of MF 2.3 Collateral Warranty
[3] in the form of MF 2.10 Reliance Warranty

The Contracting Authority collects personal data from the Applicant directly, and from the following sources:

- Applicant's organisation;
- other members of the Applicant's consortium (if applicable); and
- Referees.

Any personal data provided will be processed for the purposes of the competition, the administration of any contract awarded on foot of this competition, reporting to any regulators or oversight bodies and/or any disputes relating to the competition or the contract.

In connection with the above, the Contracting Authority may disclose personal data to various recipients including:

- Applicant's organisation;
- other members of the Applicant's consortium (if applicable);
- the Contracting Authority's third party service providers, such as financial, legal and technical advisors; and
- regulators or oversight bodies.

If the Applicant is unsuccessful as part of the tender process, such personal data will be retained until three years after the conclusion of the tender process or the award of the contract to the successful Tenderer, whichever is later. If the Applicant is successful, and a contract is awarded to the Applicant at the end of the tender process, such personal data will be retained in accordance with the Contracting Authority's record management and retention policy, a copy of which can be obtained from the Employer upon request.

Any data subjects in respect of which the Employer holds or processes personal data have rights in relation to their personal data, including the right to request access to their data and, in certain circumstances to request rectification, erasure or restriction of the processing of their personal data. All such data subjects have the right to lodge a complaint with the Irish supervisory authority, the Data Protection Commission.

2 Communications

2.1 Means of Communication

All communications from an Applicant and the Contracting Authority concerning this Competition must be in writing using the means of communication stated in the Particulars.

2.2 Supplemental information

The Contracting Authority may issue (by means of communication stated in the Particulars) supplemental information to all Applicants at any time (including where prompted by a query, confidential or otherwise). Supplemental information may to amend any of the information in these documents, including by deleting and adding to it, and by extending time limits. Supplemental information will only become part of the Contract if it is stated to amend the Contract documents.

The Contracting Authority will not normally issue supplemental information later than the date stated in the Particulars but is entitled to do so at any time.

2.3 Queries

Applicants may raise queries in writing using the means of communication stated in the Particulars. Queries must be raised as soon as possible and should be raised in any event no later than the latest date for queries stated in the Particulars, although the Contracting Authority may at its discretion respond to queries raised after that date. The Contracting Authority has no obligation to respond to queries. If the Contracting Authority responds to a query, it will issue the response to all Applicants in accordance with the Particulars, unless the Applicant asking the query has clearly designated the query as confidential. If the Applicant has designated the query as confidential, and the Contracting Authority decides that the response should, nevertheless, be sent to all Applicants, the Contracting Authority will so notify the Applicant asking the query, who will, subject always to the Contracting Authority's rights under section 2.2 of these Instructions, have the option within the time limit specified by the Authority of withdrawing the query or having any response sent to all Applicants.

The Contracting Authority may still issue any information it considers appropriate following the withdrawal of the query.

As with these Instructions to Tenderers, responses to queries will not create any contractual relationship between the Contracting Authority and Applicants, or form part of the Contract, unless explicitly stated otherwise.

It is the responsibility of Applicants to monitor the means of communication for this Competition for any correspondence or clarifications in relation to these Instructions.

If an Applicant becomes aware of any ambiguity, discrepancy, error, or omission in or between these documents, it must immediately notify the Contracting Authority, even after the time for submitting queries has expired.

2.4 Suitability Assessment Submission

Tenderers must ensure a response to the Suitability Assessment Questionnaire is included with their Tender. The Contracting Authority will review the SAQ Submissions and any Tenderer whose SAQ Submission does not pass the qualification criteria (or which is otherwise eliminated in accordance with the Suitability Assessment Questionnaire) will not be eligible for the award of the Contract and their Tenders may not necessarily be opened.

2.5 Other

As indicated in the Particulars

2.6 Suitability Assessment

Subject to section 9.6, following the submission of its tender, a Tenderer will not be allowed to make any changes to the information in its suitability assessment submission for this competition prior to contract award.

3 Applicants

3.1 Name

Each Applicant must sign and deliver the Form of Tender using the Applicant's full correct legal name.

3.2 Reliance on Resources

Where, in order to meet any applicable criteria in Section 3.3 (Financial and Economic Standing) (including for the avoidance of doubt, with respect to evidence of turnover), and/or in Section 3.4 (Technical Capability) of the Suitability Assessment Questionnaire, an Applicant (or any member of an Applicant which is a Joint Venture, Consortium or Partnership), relies on the capacities of other entities or undertakings with which it is directly or indirectly linked, whatever the legal nature of those links may be (including, for example, but not limited to, a parent company and/or a subcontractor/sub-consultant, including a specialist skill provider who is not the Applicant itself), the Applicant will be required to demonstrate to the satisfaction of the Contracting Authority that the capacities relied upon will actually be available to the Applicant if it is awarded the Contract.

At contract award stage, the Contracting Authority reserves the right to require the following from any entity relied upon with regard to:

(a) any of the Economic or Financial Standing sub-criteria, the entity relied upon may be required by the Contracting Authority at contract stage, to enter into a guarantee in the form of the Reliance Guarantee in respect of the performance of the contract by the Applicant[4];

(b) any of the Technical Capability selection sub-criteria, the entity may be required by the Contracting Authority at contract stage, to enter into either a Reliance Warranty or a Collateral Warranty for Sub-Consultants (as appropriate to the nature of the resource relied upon by the Applicant) with regard to the making available the resources relied upon by the Applicant[5]. Note that where an Applicant relies on another entity for educational or professional qualifications (sub-criteria 3.4a and 3.4b in the Questionnaire), or with regard to relevant professional experience (sub-criteria 3.4c in the Questionnaire), including those of a Specialist Skill Provider (who is not the Applicant itself), the entity being relied upon must perform the works or services to which those qualifications or experiences relate;

(c) further evidence of the availability of the resources relied upon may be required by the Contracting Authority at a later stage in the Competition and/or upon award of the Contract.

3.3 Joint ventures, consortia and partnerships

Where a Candidate is a consortium, joint venture, partnership, or unincorporated grouping of two or more persons, the Candidate is not required to assume a specific legal form for the purposes of participating in this Competition, but may be required to do so by the Contracting Authority prior to the award of the Contract. If the party who will execute the contract as the Consultant is one or more human or legal persons (such as a partnership, joint venture or consortium), each of them must execute the Form of Tender (see also 5.14 below). Where the role of Health and Safety Supervisor is part of the service to be provided the party providing that skill must be an individual or a company (i.e. body corporate) that constitutes an acceptable entity.

[4] in the form of MF 2.9 Reliance Guarantee. The Contracting Authority may accept alternate arrangements, in place of a guarantee, at its discretion.

[5] in the form of MF 2.10 Reliance Warranty

3.4 Sub-consultants

Where an Applicant comprises a lead consultant, who will execute the Contract with the Contracting Authority, and a number of sub-consultants, MF 2.3 Collateral Warranty for Sub-consultants will be required from any sub-consultant as listed in the Particulars and entry into the Contract will be conditional upon the provision of such warranties.

The Contracting Authority reserves the right to approve the sub-contract to be entered into between the lead consultant and any such sub-consultants and in particular will expect that the terms of the Conditions of Engagement insofar as they apply to any sub-consultant are reflected in any such sub-contract.

4 Information on Project and Services

4.1 The Services

The services to be provided are set out in [Schedule B to the Conditions of Engagement] and are for the stages identified in Schedule B.

The Performance Periods for performance of each stage of the Services, are set out in Schedule B to the Conditions of Engagement.

4.2 The Project

Kilkenny County Council has identified the need to engage the services of a multi-disciplinary team to advance the preliminary design, detailed design, statutory planning requirements, enabling and procurement, construction and handover to complete the Kilkenny City Centre Vibrant Streets West scheme, including fulfilment of the PSDP role along with the procurement of specialist services and all other services as prescribed to complete the scheme.

The consultant shall refer to the Kilkenny City Centre Vibrant Streets West Design Brief dated October 2026 and the accompanying tender documents.

5 Requirements for Tenders

5.1 Means of Tender Submissions

Tenders must be received in accordance with the means of submission stated in the Particulars at or before the date and time stated in the Particulars or such later date and time as may be advised by the Contracting Authority to all Applicants in the manner described in the Particulars. Time is taken as standard time according to the Standard Time Act 1968 as amended by the Standard Time (Amendment) Act 1971 and any subsequent amendment or re-enactment thereof.

Where the Particulars state that the required means of tender delivery is by electronic submission[6] to designated tender boxes on the eTenders web portal, Applicants are advised to ensure that they give sufficient time to allow for the successful upload of all tender documents and that they have a reliable, continual connection speed available for this purpose. Applicants should ensure that their operating system has sufficient capacity to execute the upload of all the documents included in the tender submission before the deadline stated in the Particulars. The timely and complete upload of documents is the responsibility of each Applicant. All files submitted electronically must be capable of being readily viewed in their entirety by the means stated in the Particulars. It is the responsibility of the Applicant to ensure that electronic documents submitted are not corrupt. Applicants are advised to consult etenders.gov.ie for information on uploading electronic submissions.

Completed delivery of the tender **in advance of the submission deadline** is the responsibility of each Applicant.

All tenders received on time will be opened promptly after expiry of the deadline for return of tenders.

5.2 Format

Tenders will consist of:

- The completed Form of Tender with attached completed Schedules A and B executed in accordance with the requirements of Section 5.14;
- Where required, detailed breakdown of tender price (e.g. the total estimate broken down into the number of man-hours with the associated hourly rate(s).
- The detailed quality submission to meet the requirements set out in the Particulars.
- The Suitability Assessment Submission.

If the Contracting Authority's information included in the Particulars in Schedules A or B to the Conditions of Engagement has been amended by supplemental information, Applicants must base their tender on the most recently issued information.

Applicants must not complete, or make any amendments or alterations to, any section of Schedules A and B to the Conditions of Engagement included with the Form of Tender. Any such amendments may result in the Applicant's tender being rejected.

[6] CA note: where the competition is subject to the European Procurement Regulations, then electronic submission" must be used.

5.3 Copies

Where the Particulars state the required means of tender submission is by hand or pre-paid registered post, Tenders must include the number and type of paper and electronic copies stated in the Particulars and must be packed and marked as stated in the Particulars.

5.4 Language

Tenders and supporting documents must be written in the language stated in the Particulars. Any original document in another language must include an accurate translation into the language stated in the Particulars. Queries and other communications must be in the same language.

5.5 Pricing

Unless otherwise stated, all sums given in tenders must be in Euros, to two decimal places.

Applicants must not insert additional items in the Form of Tender or make any alterations to the Form of Tender.

Amounts must be included wherever required in the Form of Tender. Blank spaces, the terms “nil” or “included”, or dashes or the like must not be used. Each amount must properly cover the full inclusive value of the work to which the amount relates.

Where the Contracting Authority has required Applicants to submit a detailed breakdown of their tender price this information is to be provided in addition to the cost information requested in the Form of Tender and should include all costs associated with the tender total (e.g. total estimated man-hours extended by associated hourly rates and other itemised costs).

Where the Applicants are permitted to tender a percentage for the fee, this percentage is to be a single overall percentage figure for the full service delivery. Applicants are not permitted to tender a different percentage fee for different stages and where an Applicant attempts to do so, the percentages tendered will be averaged out to arrive at an overall single percentage.

The tendered hourly rates will be deemed to include for profits and for all costs associated with staff, in particular:

- Salary payments;
- Provision of all secretarial/administration/clerical support;
- All equipment required in the performance of the services;
- Office overheads;
- Insurance including health insurance;
- Bonus payments;
- Employer PRSI;
- Any allowances (including travel and subsistence);
- General office consumables;
- Annual leave payments/sick leave payments;
- Postage/telephone/fax/e-mail costs;

- All photocopying, printing and document reproduction.

The Contracting Authority's decision as to whether or not a tender has complied with the requirements of this paragraph shall be binding.

5.6 Allocation of fees

The proportion of the fee that will be payable for each stage in accordance with the Conditions of Engagement is set out in Schedule B to the Conditions of Engagement. Applicants are not permitted to propose different proportions with their tenders and any attempt to do so may result in the tender being rejected.

5.7 Notional capital value

The notional capital value figure stated in the Particulars, if any, is exclusive of VAT and represents a notional total capital value for the project which will be used for tender assessment purposes only, as set out in section 9 of these Instructions.

5.8 Value Added Tax

The amounts entered in the Form of Tender and any amounts in any detailed pricing breakdown required are to exclude value-added tax unless otherwise stated.[7]

5.9 Qualifications

Tenders must not be qualified in any way but must be submitted in accordance with these Instructions. Without prejudice to the generality of the foregoing, Tenders must not include or be accompanied by any statement that could be construed as rendering the tender equivocal and/or placing it on a different footing from other tenders.

5.10 Not Used

5.11 Project Supervisor

If so stated in the Particulars, the Consultant or its nominee will be appointed as project supervisor for the design process under the Safety, Health and Welfare at Work (Construction) Regulations 2013 (as amended).

Subject to the provisions of section 2.4, if the Tenderer has named a proposed project supervisor for the design process in its suitability assessment submission for this competition, the Tenderer must include details of the project supervisor(s) so named. If the Tenderer has not named a nominee in its suitability assessment submission for appointment as project supervisor for the design process the Tenderer will be taken to have offered to act in the role itself, and the Contract, if awarded to the Tenderer, will require the Tenderer to accept the role. In this case, the Applicant must be a competent individual or body corporate.

5.12 Assigned Certifier

If so stated in the Particulars, the Consultant or its nominee will be appointed as Assigned Certifier under the Building Control (Amendment) Regulations 2014.

[7] CA: there may be different VAT treatment for different elements of the lump sum (e.g. expenses). If you require elements with different VAT treatment to be separately set out in invoices, this should be stated in the management services and you may also wish to require any breakdown of the lump sum sought to have elements with different VAT treatment listed separately.

Subject to the provisions of section 2.4, if the Tenderer has named a proposed Assigned Certifier in its suitability assessment submission for this competition, the Tenderer must include details of the Assigned Certifier so named. If the Tenderer has not named a nominee in its suitability assessment submission for appointment as assigned certifier the Tenderer will be taken to have offered to act in the role itself, and the Contract, if awarded to the Tenderer, will require the Tenderer to accept the role. In this case, the Applicant must be a competent individual or body corporate.

5.13 Design Certificate

If so stated in the Particulars, the Consultant will be required to sign the Design Certificate in accordance with the Building Control (Amendment) Regulations 2014

5.14 Tender execution

The Form of Tender must be signed on behalf of the Tenderer by a duly authorised person (whose signature should be followed by "Duly Authorised on Behalf of [name of the Tenderer]").

If so required by the Contracting Authority, the Tenderer must procure and provide a legal opinion as to the signing of the Form of Tender on behalf of the Tenderer and, if the Employer requires such a legal opinion, it must be provided at the Tenderer's cost. Such legal opinion shall be expressly for the benefit of the Employer.

Where the Particulars state that electronic submission is the required means of delivery, the signature must be visible on the scanned Form of Tender. The Contracting Authority reserves the right to seek a hard copy of the Form of Tender at a later date.

5.15 Deposits

Any deposit required for hard copies of tender documents as stated in the Particulars will be refundable to all tenderers that submit *bona fide* tenders that are not subsequently withdrawn. Such deposit is to cover the cost incurred by the Contracting Authority in preparing the relevant tender documents.

5.16 Suitability Assessment

With their tenders, Tenderers are also required to submit their Suitability Assessment Submission. This will be assessed as set out in paragraph 9.1 below to determine the Tenderer's suitability to carry out the Service.

6 Number of Tenders, Mandatory Options and Variants

6.1 Terminology

An **option** is a Tender *required* under section 6.2 below.

A **variant tender** is a Tender complying with section 6.3 below and identified as a variant Tender.

A **standard tender** is a Tender that is not an option or a variant Tender.

6.2 Mandatory options

If the Particulars state that any mandatory options are required, the Applicants must submit a separate tender for each of the options stated in the Particulars.

6.3 Variant tenders

If the Particulars state that any variant tenders are permitted, a variant tender must comply with the minimum requirements set out in the Particulars.

If so stated in the Particulars, variant tenders may be submitted only by an Applicant who also submits a standard tender.

If not so stated, variant tenders may be submitted without submitting a standard tender.

Unless otherwise stated in the Particulars, variant tenders are not permitted.

6.4 Numbers of tenders

The maximum number of Tenders that an Applicant may submit is stated in the Particulars. If more than one Tender per Applicant is permitted, each Tender must be submitted separately and must, except as otherwise permitted or required by this section 6, be complete, without referring to the contents of any other Tender. Each Tender must have a unique identifier, which must be stated on each envelope or box containing the parts of the Tender. The identifier must state whether the Tender is standard, a mandatory option, or a variant Tender and if there are options, must identify the option.

7 Non- Compliant Tenders

The Contracting Authority's decision on whether a tender is compliant will be final.

If a Tender fails to comply in any respect with the requirements set out in these instructions, or is ambiguous, the Contracting Authority shall be entitled at its absolute discretion (but shall not be obliged) to take such action as it considers appropriate, including (but not limited to):

(a) rejecting the relevant tender as non-compliant;

(b) without prejudice to the Contracting Authority's right to reject the tender:

(i) meeting with, raising issues and/or seeking clarification from the Tenderer in respect of the relevant tender;

(ii) requesting the Tenderer to provide the Contracting Authority with information or items which have not been provided or have been provided in an incorrect form, provided such information does not constitute a material amendment to the tender;

(iii) waiving a requirement which, in the opinion of the Contracting Authority, is minor or procedural.

(iv) take any other step permitted by law.

in accordance with applicable law and principles

8 Corrections, unbalanced and abnormal tenders and rates

8.1 Errors

The Contracting Authority may, without any responsibility for this, examine the Form of Tender and other detailed pricing information (where sought at 5.5 above and in the Particulars) for errors in addition or extension.

If there is an error in extension, the rate will be adjusted, so that the extension remains the same.

If there is an error in addition, the amounts added (and the rates making them up) will be adjusted pro rata to the error, so that the total remains the same. This will apply if the total of the tendered rates and prices, does not add up to the tendered lump sum fixed price (the "**Contract Sum**").

The Contracting Authority will decide which amounts and rates are to be adjusted.

No adjustment made under this section 8.1 will affect the tendered Contract Sum for the purpose of assessment.

8.2 Unbalanced Tenders

Where, in the Contracting Authority's opinion, any breakdown by the Tenderer of the Contract Sum does not reflect a fair allocation of the tendered Contract Sum, the Contracting Authority may (but is not obliged to) do any or all of the following:

- require the Tenderer to provide a more detailed breakdown of any tendered amounts (in addition to those already provided under 5.5 as required in the Particulars), to show that they reflect a fair allocation of the tendered Contract Sum;
- require that any figures proposed by a Tenderer for each stage of the Service be adjusted to reflect the allocation set out in the Particulars;
- invite the Tenderer to adjust the breakdown of the Contract Sum or the allocation of the tendered percentages, but without adjusting the tendered Contract Sum, or where relevant, the overall percentage fee tendered.

The Contracting Authority will pay particular attention to pricing that could result in the Tenderer, if successful, being paid too much of the Contract Sum disproportionately early in comparison with the amount of work done.

If, having considered the information provided (both in the tender and in response to a requirement under this section 8.2), the Contracting Authority is of the view that the Tenderer's breakdown of the tendered fixed price lump sum or distribution of the tendered percentages do not reflect a fair allocation of the tendered Contract Sum, the Contracting Authority may reject the tender.

8.3 Abnormally low tenders, abnormally high or low rates or prices

Tenderers must not use abnormally high or low rates or prices. If, in the Contracting Authority's opinion, the overall tendered amount is abnormally low or any tendered percentage (where relevant) or amounts including the rates tendered for time charges are abnormally low or abnormally high, the Contracting Authority may require the Tenderer to provide further written details of the constituent elements of the overall tendered amount or the tendered rates or any other information which the Contracting Authority considers relevant. This may include (without limitation) the information listed in Regulation 69 of the European Union (Award of Public Authority Contracts) Regulations 2016.

Any failure to provide such information, where requested, may exclude the tender from further consideration.

Instructions to Tenderers for Consultancy Services under an Open Procedure where Hourly Rates are to be Tendered

Tenderers are advised that in relation to hourly rates, the Contracting Authority reserves the right in particular to request such information as the Contracting Authority considers appropriate to determine whether such rates are abnormally low or high.

If, having considered the information provided, the Contracting Authority is of the view that either the Contract Sum is abnormally low or any tendered amounts (including the rates for time charges) are abnormally low or abnormally high, the Contracting Authority may reject the tender.

No adjustment made under this section 8 will affect the tendered amount.

9 Assessment of Tenders

9.1 Award Criteria

The award criterion is the most economically advantageous tender meeting the specified minimum criteria.

The assessment of the Most Economically Advantageous Tender will be determined in accordance with the award criteria set out in the Particulars.

Options, variant tenders, and standard tenders will be assessed according to these criteria.

9.2 Clarifications

The Contracting Authority may seek clarification or further information or both from one or more Tenderers in relation to their tender submission. The Contracting Authority may meet with one or more Tenderers for these purposes. The Contracting Authority will confirm to the Tenderer(s) concerned in written minutes any clarification arising from a meeting and the Tenderer will be required to confirm or correct the minutes in writing. See also section 10.4.

9.3 Compliance

The Contracting Authority will assess whether any of the grounds for exclusion in the Suitability Assessment Questionnaire apply, where applied in this Competition. This applies right up to the award of the contract.

Without prejudice to the foregoing, and the Contracting Authority reserves the right to confirm that the Tenderers circumstances has not changed to the extent that they would not qualify for the award of this contract. The Contracting Authority will assess Tenders for compliance with these Instructions, including provision of all the information and documentation required, and the matters covered in section 8 above.

Following the assessments under this section 9.3, the Contracting Authority may proceed according to section 7.

9.4 Review [8]

Important Note: Any review procedure available in this Competition (other than legal proceedings under Order 84A of the rules of Superior Courts[9]) set out in the Particulars is not mandatory. Tenderers should obtain legal advice as to the review procedures that may be available to them under law, as well as the timeframes in which such review procedures may be availed of

9.5 Assessment methodology

(a) Tenders will be evaluated against the quality criteria set out in the Particulars. Any Tenderer:

- (i) Not passing on a 'pass / fail' criterion, or
- (ii) achieving less than 40% of the maximum marks on an individual 'quality' criterion or
- (iii) achieving less than 50% of the total available quality marks

[8] CA Note - In the Particulars, the Contracting Authority may state a review procedure, whereby a Tenderer who disputes a decision of the Contracting Authority about whether a Tender complies with these Instructions for Tenderers, may raise the matter with the Contracting Authority. The review procedure should include appropriate timelines for the submission of the query and response times.

[9] Where the competition is subject to the European Procurement Regulations

will be excluded from further consideration.

(b) Those Tenderers whose tender submissions have not been excluded following the carrying out of the compliance check at Section 9.3 and the evaluation against the quality criteria at (a) above will then have their tender prices assessed.

(c) The price score will be determined by taking the following steps:

(i) The Contracting Authority will apply the Tenderer's tendered hourly rates to the notional hours set out in the Particulars, leading to a notional figure for time charges.

(ii) Where a percentage fee has been properly tendered for carrying out the Services or any element of the Services, this percentage will be applied to the notional capital value set out in the Particulars to derive a notional lump sum for the purpose of assessment only.

(iii) Where a lump sum for carrying out the Services or any element of the Services has been properly tendered, this lump sum will be added to the figure obtained under (c) (i) above, where relevant.

(iv) The total figure thus obtained will be the overall notional tender price for the purposes of assessment.

(d) The Tenderer with the lowest overall notional tender price following the assessment at (a), (b) and (c) above will be awarded the maximum marks available for price. Other Tenderers eligible for appointment are then scored by deducting one half of one percent (0.5%) of the total marks available for price for every one percentage points difference between the lowest eligible price and that of the Tenderer under consideration. The lowest price mark which can be obtained is zero. Fractions of points shall be rounded to the nearest whole mark.

Price marks for Tenderer = A x (1 – (0.5 x [(B – C)/C])

Where:

A = *Total marks available for price*
B = *Tender price of Tenderer*
C = *Lowest eligible tender price*

(e) In the quality assessment, the Tenderer(s) considered to have the highest technical merit in each criterion being assessed (or sub-criterion, where used) will be given the maximum marks available for that criterion (or sub-criterion, where used). All other Tenders will be marked for each criterion (or sub-criterion (where used)) relative to the tender(s) assessed as having the highest technical merit for that criterion (or sub-criterion, where used). Each Tenderer's quality marks for each criterion shall be totalled at the end of the assessment process. The highest scoring Tenderer eligible for appointment will then be awarded 100% of the available marks for quality and all others will be awarded a proportion of the total available marks equal to the proportion that their quality score represents of the highest scoring Tenderer. Fractions of points shall be rounded to the nearest whole unit.

Quality marks for Tenderer = A x (B/C)

Where:

A = *Total marks available for quality*
B = *Total marks awarded to Tenderer for all quality criteria*
C = *Total marks awarded to highest scoring Tenderer for all quality criteria*

(f) The quality and price marks for the Tenderers which have not been excluded must have regard to the Quality: Price Ratio set out in the Particulars. The Tenderer with the highest final score as determined by the formula below will be the Most Economically Advantageous Tender. In the event of a tie between Tenderers, the Tenderer with the highest marks for quality will be the Most Economically Advantageous Tender. In the event of a tie on the basis of quality marks, those Tenderers tied on quality marks will have their names included in an independently witnessed draw to determine the Most Economically Advantageous Tenderer.

Final score = (A/B x C) + (D/E x F)

Where:

A = *Tenderer's total quality marks as determined at Section 9.5(e)*
B = *Total marks available for quality*
C = *Quality Ratio as set out in Quality: Price Ratio in the Particulars*

D = *Tenderer's total price marks as determined at Section 9.5(d)*
E = *Total marks available for price*
F = *Price Ratio as set out in Quality: Price Ratio in the Particulars*

9.6 Change in circumstances

If, as a result of a change in circumstances or otherwise, any information given by a Tenderer to the Contracting Authority, in a tender or otherwise, including in a Suitability Assessment Submission , (in particular but without limitation, regarding the structure of a Tenderer and/or the members of a Tenderer or any entity being relied upon by the Tenderer, or the personnel proposed) was (when submitted) or has become (by reference to the facts as they then stand) untrue, incomplete or misleading, the Tenderer must so inform the Contracting Authority as soon as it becomes aware of this.

If it comes to the Contracting Authority's attention that

- there has been a change in circumstances concerning a Tenderer that could affect the Contracting Authority's assessment of that Tenderer's tender or the Contracting Authority's decision to open that Tenderer's tender, or
- information submitted by a Tenderer was (when submitted) or has become (by reference to the facts as they then stand) untrue, incomplete or misleading

the Contracting Authority may (but is not required to) take such steps as it considers necessary to revise its assessment of the Tenderer's tender or suitability assessment submission on the basis of the information then available to the Contracting Authority and/or exclude the Tenderer from further participation in the Competition. The Contracting Authority may clarify this with the Tenderer and may seek further information and/or evidence from the Tenderer.

10 Award Process

10.1 Tender validity period

Tenders must remain open for acceptance for the period stated in the Particulars.

10.2 Notification

As soon as practicable after reaching the award decision as to which is the most economically advantageous tender, the Contracting Authority will inform all Tenderers of the decision.

If the European Procurement Regulations apply the notification to the Tenderer to whom the Contracting Authority has decided to make an award should be in the form of Model Letter O.eu.6 *Letter to Successful Tenderer*. The notification to the other compliant Tenderers should be in the form of Model Letter O.eu.7 *Letter to Unsuccessful Tenderer* and should issue at the same time as the *Letter to Successful Tenderer*.

If the European Procurement Regulations do not apply the notification to the Tenderer to whom the Contracting Authority has decided to make an award should be in the form of Model Letter O.na.6 *Letter to Successful Tenderer.* The notification to the other compliant Tenderers should be in the form of Model Letter O.na.7 *Letter to Unsuccessful Tenderer* and should issue at the same time as the *Letter to Successful Tenderer.*

Where a contract is regulated by the European Procurement Regulations the Employer will not issue the *Letter of Acceptance (M.F. 2.2)* earlier than 14 days in the case of communicating electronically, or 16 days in the case of ordinary post after notifying all Tenderers of the award decision.

The *Letter to Successful Tenderer* will not form the Contract, or any contract or other obligation. The Contract will be formed only by issue of the *Letter of Acceptance.*

10.3 Letter to Successful Tenderer

Whichever *Letter to Successful Tenderer* issues (O.eu.6 or O.na.6) to the Tenderer who submitted the most economically advantageous tender it should require the Tenderer to submit to the Contracting Authority any or all of the items listed in the Particulars under "*Letter to Successful Tenderer*" together with any other items that the Contracting Authority deems appropriate.

If the Tenderer to whom such a *Letter to Successful Tenderer* is addressed does not submit the documents as required within the time allowed, the Contracting Authority may take such steps as it considers appropriate, including (but not limited to) to

- proceed according to the process in section 10.2 above to initiate award to the Tenderer who submitted the next most economically advantageous Tender or
- allow the Tenderer to whom the *Letter to Successful Tenderer* was addressed additional time to provide the documents or
- issue the Letter of Acceptance to the Tenderer to whom the *Letter to Successful Tenderer* was addressed (even though the documents have not yet been provided). [10]

10.4 Letter of Acceptance

The Contracting Authority may create the contract by issuing a Letter of Acceptance at any time during the tender validity period or any extension of that period before the expiry of that period.

[10] A contract should not be awarded to any firm which cannot produce a tax clearance certificate except as a last resort. In such a case, the advance approval of the Department of Finance must be obtained.

Any written clarifications of a Tender (including written minutes of a meeting clarifying the Tender, see section 9.2), will be referred to (if part of the Contract) in any Letter of Acceptance of the clarified tender, and the clarifications referred to will be included in the Contract.

10.5 Conditions of Engagement

Following issue of the Letter of Acceptance the Contracting Authority will inform the Consultant of the arrangements for the execution of the Agreement. The Consultant shall comply with the rules regarding execution in the Particulars.

10.6 Award Notice

The Contracting Authority will, after award, send an award notice (if appropriate) to the Office for Official Publications of the EU, if so required by law.

11 Conflict of Interest

11.1 Disclosure

Any conflict of interest or potential conflict of interest must be fully disclosed in writing to the Contracting Authority as soon as such conflict or potential conflict becomes apparent. In the event of any conflict or potential conflict of interest, the Contracting Authority shall, in its absolute discretion, decide on the appropriate course of action.

A conflict of interest includes, but is not limited to, situations where a Candidate or any of the members of a Candidate which is a consortium, joint venture or partnership, or any entity being relied upon, or any of their advisers, contractors, consultants, servants or agents, are currently or have been in the past an adviser, contractor consultant, servant or agent to the Contracting Authority, or any local or other relevant authority in relation to the Services or the competition.

Without prejudice to the foregoing, any registrable interest involving the Candidate and the Contracting Authority, (and where applicable any elected members of the Contracting Authority or members of the Board of the Contracting Authority), members of the Government, members of the Oireachtas or employees of the Contracting Authority or their relatives must be fully disclosed to the Contracting Authority immediately upon such information becoming known to the Candidate.

The terms 'registrable interest' and 'relatives' shall be interpreted in line with the Ethics in Public Office Act, 1995 and 2001.

The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may include (but is not limited to) excluding the Candidate from the competition, terminating any contract awarded under the competition or permitting the Candidate to continue subject to safeguards determined by the Contracting Authority being put in place and observed.

Without prejudice to the foregoing, where any entity(ies) proposes to be on more than one team bidding for the Contract, the relevant Tenderers must provide a statement that they are aware of this multiple participation, and that it has been brought to the attention of all concerned.

The Contracting Authority will then investigate the circumstances to see if this multiple participation could result in a distortion of competition. Where it is felt that competition may be distorted, Contracting Authority may take such steps as it deems appropriate which may include limiting the number of bidding teams with which an entity may participate, disqualifying relevant Candidates or such other steps as it deems appropriate subject to the principles of applicable law.

Glossary of Terms used in these Instructions

Terms defined in the Conditions of Engagement identified in the Particulars have the same meaning in these Instructions. References to clauses are to clauses or sub-clauses of those Conditions. Unless otherwise indicated, references to sections and Appendices are to sections of and Appendices to these Instructions.

Term	Meaning
Applicant	a person (or group of persons) that has decided to tender for the project.
Candidate	A person (or group of persons) that has submitted a tender and suitability assessment material and who has not yet been assessed for suitability at evaluation stage.
Contract	the contract that may be awarded by the Contracting Authority for the Services at the end of the competition.
Conditions of Engagement	the Government's Standard Conditions of Engagement for either Consultancy Services (Technical), or for Archaeological Services.
this competition	the award process for which these Instructions is issued.
these documents	These Instructions and the invitation letter and other documents issued with it and any additional information issued by the Contracting Authority in connection with the competition.
European Procurement Regulations	SI 284 of 2016 (European Union (Award of Public Authority Contracts) Regulations 2016) or SI 286 of 2016 (European Union (Award of Public Contracts by Utility Undertakings) Regulations 2016).
these Instructions	• this volume, including the Preface at the start, Particulars and Appendices • other documentation accompanying this volume and any information and/or opinions made available during the tender period by and on behalf of the Contracting Authority and information or instructions issued by the Contracting Authority in connection with the competition not stated to amend the Contract documents.
Suitability Assessment Submission	The Applicant's response to the Suitability Assessment Questionnaire(s) accompanying these Instructions.
Tenderer	An Applicant that has submitted a tender.

Particulars

These are the Particulars referred to in these Instructions. Where there is any conflict between the details set out in the Particulars and the details set out in the completed Schedules A and B attached to the Form of Tender the details set out in the Schedules shall prevail.

Tender for	*Technical Consultancy services for the Kilkenny City Centre Vibrant Streets West*	
comprising	*Engagement of the services of a multi-disciplinary team to advance the preliminary design, detailed design, statutory planning requirements, enabling and procurement, construction and handover to complete the Kilkenny City Centre Vibrant Streets West scheme, including fulfilment of the PSDP role along with the procurement of specialist services and all other services as prescribed to complete the scheme.*	
Main CPV Code		
For	Kilkenny County Council	
For	*Kilkenny City Centre Vibrant Streets West*	
At	*Rose Inn St, The Parade & Mayors Walk, High St, Friary St, William St & James's St.*	
Using (Instructions section 1.2 and 10.5)	Terms of Engagement:	Conditions of Engagement Consultancy Services(Tec) Published on http://constructionprocurement.gov.ie/standard-conditions-of-engagement/ on the date 10 days before the latest date for submission of Tenders (disregarding any amendments posted on that date).
Anticipated Date for Commencement of Service:	December 2026	
Anticipated Service Contract Period (months/years):	44 Months	

Means of Communication between Applicants and Contracting Authority (Instructions section 2.1,2.2 2.3)[11]	All communications between the Candidate and the Contracting Authority in relation to this Competition shall be in writing by electronic submission using eTenders webportal

Supplemental Information and	Latest date for queries	*14 days before latest time for receipt of* tender

[11] CA note: where the competition is subject to the European Procurement Regulations, then "electronic submission" **must** be selected.

Queries (Instructions sections 2.2, 2.3)	Date after which Contracting Authority will not normally issue supplemental information or responses to queries	*8 days before latest time for receipt of* tender

Pricing (Instructions section 5.5)	Pricing Format	Fixed Price Lump Sum
	Provide a detailed breakdown of tender price	**Yes**

Tender Submission Deadline (Instructions section 5.1)	Deadline for submission of tenders:	Refer to e-tenders notice	12:00 hrs

Means of Tender submission (Instructions ~~section~~ 5.1)	All Tender submissions shall be submitted[12] by: by electronic submission to [eTenders webportal
	Note to Tenderers: **Where it is stated above that Tenders are to be submitted by hand or pre-paid registered post, Tenderers should obtain a signed receipt acknowledging delivery.** **Where it is stated above that tender submissions shall be submitted by "electronic submission to eTenders tender box(es)", tenders must be delivered to the designated tender boxes on the eTenders web portal.**

Hard Copies (Instructions section 5.3)		
	Number of Paper Copies of Tender	
	Number and type of Electronic Copies of Tender:	One

Other (Instructions section 2.5)	*All tender documents submitted must be compiled such that they can be read immediately using PDF readers. The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.*

Tender Documents	Attached to these Instructions are the following documents, divided into the three categories set out below: **Documents to be included in the Contract**

[12] CA note: where the competition is subject to the European Procurement Regulations, then "electronic submission" **must** be selected.

(Instructions section 1.2)	Letter of Acceptance Form of Tender and Schedules A & B Service Requirements as detailed in the Project Brief Agreement and Standard Conditions of Engagement for Consultancy Services (technical) Collateral Warranties from Sub Consultants as required. PSDP, Assigned Certifier and Design Certifier appointments Any post tender clarifications. **Documents for information purposes only** (*not* to be included in the Contract) Kilkenny City & County Development Plan 2021-2027; as varied by variation 10 and it's associated documents. Kilkenny County Council Public Lighting Manual and Product Specification 2021 - DRAFT Rainwater Management Plans Guidance for Local Authorities 2024 Granted Planning Permissions relevant to Design Brief, available via Kilkenny County Council Planning website. **Documents for suitability assessment** Suitability Assessment Questionnaire (SAQ) including associated appendices These Instructions (other than any appendices listed in 1.7 of Schedule A to be contract documents) and any other information issued to Applicants not stated to amend the Contract documents are not to be included in the Contract.
	Further Information Further information may issue as referred to in these Instructions
Format of Tender Submissions (Instructions section 5.2)	**<u>Where the required means of Tender submission is by electronic submission</u>** Applicants should upload their Tender in clearly named separate documents. All uploaded documents should be saved in the file format stated below. The contents of each document must be clearly identifiable by their saved title and each document must contain the name of the Applicant, name of the Contract and the content of the document. All documents that require signature must be signed prior to converting to a *read only* PDF file format. The tender documentation shall be uploaded as two separate folders. One lableled 'Quality Submission Documentation' and the second labeled 'Tender and Schedules'. If more than one Tender is permitted or required, each document must also be marked with the unique identifier required under Section 6.4 of these Instructions. The required format of electronic files is: PDF
	<u>Where the required means of Tender submission is by hand or pre-paid registered post:</u> N/A.
Language (Instructions section 5.4)	English

Instructions to Tenderers for Consultancy Services under an Open Procedure where Hourly Rates are to be Tendered

Tender Validity Period (Instructions section 10.1)	As stated in Form of Tender *180 days*

Mandatory Options (Instructions section 6.2)	Are mandatory options required **No**

Variants (Instructions section 6.3)	Are variant tenders permitted?	**No**
	If variant tenders are permitted, is a standard tender also required?	**Not Applicable**
	Minimum requirements for variants	**Not Applicable**
Number of Tenders [Instructions section 6.4]	Maximum number of tenders per Applicant	**One**
Conditions of Engagement to be executed under seal [Instructions 10.5]	No	

Indicative Tender Programme for Competition	Contract Notice date:	*Refer to e-tenders notice*	Reference:	*Refer to e-tenders notice*
	Issue Tender Documents:	*Refer to e-tenders notice*		
	Receipt of Tenders:	*As indicated under "Tender Date"*		
	Interviews (if required):			
	Decision on Contract Award:	*4 weeks after tender submission date*		

Sub-Consultants (Instructions section 3.4)	Sub-Consultants who will be required to provide Collateral Warranties	*All Principal Service Providers*

Review (Instructions 9.4)	Review procedure (other than legal proceedings under Order 84A of the Rules of Superior Courts[13]):

[13] Where the competition is subject to the European Procurement Regulations

N/A
Note to Tenderers: Any review process set out above is not mandatory. Applicants should obtain legal advice as to the review procedures that may be available to them under law, as well as the timeframes in which such review procedures may be availed of.

Award Criteria (Instructions section 9.1)

OVERALL TOTAL QUALITY MARKS AND MINIMUM THRESHOLD	
Overall Total Quality Marks	*700*
Minimum Quality Threshold for each individual criterion	**40%**
Minimum Overall Quality Threshold	**50%**

TOTAL MARKS FOR QUALITY CRITERIA AND SUB-CRITERIA		
Total Quality Marks Criterion 'A'		*200*
Total Quality Marks for Sub-Criterion 'A1'	*75*	
Total Quality Marks for Sub-Criterion 'A2'	*75*	
Total Quality Marks for Sub-Criterion 'A3'	*50*	
Total Quality Marks for Sub-Criterion 'A4'	*n/a*	
Total Quality Marks Criterion 'B'		*200*
Total Quality Marks for Sub-Criterion 'B1'	*150*	
Total Quality Marks for Sub-Criterion 'B2'	*50*	
Total Quality Marks for Sub-Criterion 'B3'	*n/a*	
Total Quality Marks for Sub-Criterion 'B4'	*n/a*	
Total Quality Marks Criterion 'C'		*150*
Total Quality Marks for Sub-Criterion 'C1'	*100*	
Total Quality Marks for Sub-Criterion 'C2'	*50*	
Total Quality Marks for Sub-Criterion 'C3'	*n/a*	
Total Quality Marks for Sub-Criterion 'C4'	*n/a*	
Total Quality Marks Criterion 'D'		*150*

Total Quality Marks for Sub-Criterion 'D1'	*50*	
Total Quality Marks for Sub-Criterion 'D2'	*25*	
Total Quality Marks for Sub-Criterion 'D3'	*25*	
Total Quality Marks for Sub-Criterion 'D4'	*50*	
Total Quality Marks Criterion 'E'		*n/a*
Total Quality Marks for Sub-Criterion 'E1'	*n/a*	
Total Quality Marks for Sub-Criterion 'E2'	*n/a*	
Total Quality Marks for Sub-Criterion 'E3'	*n/a*	
Total Quality Marks for Sub-Criterion 'E4'	*n/a*	
Total Quality Marks Criterion 'F'		*n/a*
Total Quality Marks for Sub-Criterion 'F1'	*n/a*	
Total Quality Marks for Sub-Criterion 'F2'	*n/a*	
Total Quality Marks for Sub-Criterion 'F3'	*n/a*	
Total Quality Marks for Sub-Criterion 'F4'	*n/a*	

PRICE CRITERIA	
Total Price Marks:	*300*
QUALITY PRICE RATIO	
Quality: Price Ratio	*70:30*[14]
BASIS OF ASSESSMENT	
Basis of Assessment for Quality Criteria and Information Required: *Criterion A, 200 marks* *Project Appreciation and Proposed Methodology Candidates are asked to demonstrate a clear understanding of the contract goals and an appreciation of the work required to achieve these. Candidates should also demonstrate an awareness of the potential risks which may hamper the success of this projects during the design process.* *Criterion B, 200 marks* *Technical knowledge Candidates are asked to demonstrate their ability to provide inovative design solutions within urban environments on road projects, pedestrianisation projects and urban renewal projects in accordance with DMURS, National Cycle Manual and TII standards and best practice. This*	

[14] Where none is stated, it shall read 70: 30

should also include materials specified in delivering a durable low maintenance cost effictive project. Candidates are asked to demostrate a proficency in preparing tender documentation under the GCCC form of public works contract.

Criterion C, 150 marks
Proposed project staff Candidates are asked to nominate the members of staff who will fulfill the various roles within the projects and quantify the extent of their input into the project. Candidates should also demonstrate the suitability of these members of staff to undertake the assigned task and the benefits that the proposed person will bring to the role.

Criterion D, 150 marks
Quality management systems, approach to health and safety and sustainability. Candidiates are asked to demonstrate how their internal management systems shall be applied to these projects including the procedures and checks that shall be undertaken. Candidates are asked to demonstrate their methodology for the identification of hazards through out the project and discuss their approach to risk management. Candidates are asked to demonstrate how th eproject will be delivered in a sustainable manner.

Criterion A - Project Appreciation and Proposed Methodology - 200 marks

Sub criterion A1 - Project Appreciation/Potential Project Risks, 75 marks - Candidates should submit a overview of the project to demonstate an understanding of the task as a whole and identify potential risks which may adversely affect the delivery of the service. (Response to be a maximum of one A4 page - size 12 font - single line spacing.)

Sub criterion A2 - Project Methodology and Delivery, 75 marks - Candidates should submit a brief overview of the various stages of the design process to demonstrate an understanding of the scope of the works involved and how they would undertake the tasks and their time requirements. Particular reference should be made to proposals for the effective leadership, management and co-ordination of the design team through the detailed design and construction process to ensure adherence to programme, budget and quality requirements. (Response to be a maximum of two A4 pages - size 12 font - single line spacing.)

Sub criterion A3 - Project Programme, 50 marks - Candidates should provide a works programme detailing the anticipated duration of each design activity and the total number of man-hours required for completion of each task. The programme shall detail the steps to be delivered to commence construction before the end of September 2027. (Response to be a maximum of one A4 page - size 12 font - single line spacing - programme schedule will not included in page count.)

An Organogram shall be provided for the proposed Design Team (all key service providers as listed on Section 2, page 3 of the brief of Services), identifying the key personnel in each discipline who will be responsible for the day-to-day delivery of the project. Inclusion in the organogram by the tenderer shall confirm the service provider identified has the minimum post qualification experience specified and the availability of the proposed service providers to undertake the project taking into consideration their current commitments.
An outline Gantt chart of the programme for the delivery of the project requirements in the timelines required shall be provided with the submission. (Please note that neither the organogram or Ghantt chart is included in the page count limit.)

Criterion B - Technical Knowledge - 200 marks

Sub criterion B1 - Proficiency in Design, 150 marks - Candidates are asked to demonstrate a capacity to design and specify durable, low maintenance, high quality and cost effective infrastructure such as drainage systems and nature-based solutions, outdoor seating, public shelter, pedestrian and cycling, etc with considerations for public lighting, hard and soft landscaping and universal access. Candidates shall give examples of recent past works they have undertaken and explain the design decisions undertaken to meet the objectives listed above. (Response to be a maximum of two A4 pages - size 12 font - single line spacing.)

Sub criterion B2 - Proficiency in Contract Documentation, 50 marks - Candidates are asked to demonstrate a proficiency in the preparation of tender documentation under the Government Construction Contracts Committee (GCCC) form of public works contract. Candidates should prepare a brief overview to demonstrate an understanding of the objectives of the form of contracts and detail where problems could potentially arise. Candidates provide details of three public works projects of similar nature to this project for which they have prepared tender documentation and tendered under the new form of contract within the last five years. (Response to be a maximum of one A4 page - size 12 font - single line spacing.)

Criterion C - Proposed Multi-Disciplinary Design Team Personnel - 150 marks

Sub criterion C1- Multi-Disciplinary Design Team, 100 marks - The key personnel specified on page 9 of the brief shall provide details of relevant experience in projects similar in nature, scale and complexity to the current project (2 project examples shall be provided per key personnel) with particular reference to the areas of High Quality Design, Cost Control and Project Supervision of these projects.

Project examples provided shall be either complete or substantially completed.

In assessing the comparable scale of the project experience, Kilkenny County Council will give particular consideration to the development of public infrastructure and building projects with a construction value in the order of €3m +.

Marks under this criteria will be allocated to each of the following key service providers as detailed below:
Project Director (Design Team Leader) (Minimum 10 years' relevant post graduate experience) 20 Marks;
Project Manager (Minimum 7 years relevant post graduate experience) 20 marks;
Senior Civil Engineer (Minimum requirement 7 years' relevant post graduate experience) 20 marks;
Urban Streetscape/Landscape Architect – Minimum 5 years relevant post graduate experience 10 marks;
Quantity Surveyor (Minimum 5 years relevant post graduate experience) 10 marks;
Lighting Design Consultant (Minimum 5 years' relevant post graduate experience) 10 marks
PSDP Services (Minimum 5 years' relevant post graduate experience) 10 marks.

Details of the projects shall be presented in the format of Appendix E1 (Evidence of Professional Qualifications and Experience) and shall include sufficient detail to allow the contracting authority to assess the relevance of the experience to the current project. Where more than two project examples

are provided, only the first two examples provided will be considered. (Response to be a maximum of two A4 page/project per key personnel listed - size 12 font - single line spacing.)

Sub criterion C2 - Construction Stage Employer's Representative, 50 marks - Candidates are asked to nominate their proposed Construction Stage Employer's Representaive Team and provide details of the anticipated time commitment of the various team members to the works stage of the project. Candidates shall provide details of the suitability of the nominated personnel to fulfill the proposed roles and the benefit these particular individuals will bring to the project. (Response to be a maximum of one A4 pages - size 12 font - single line spacing.)

Criterion D - Quality Management Systems, Health and Safety and Suatainability - 150 marks

Sub Criterion D1 - Quality Management, 50 marks Candidates are asked to demonstrate how their Quality Management Systems shall be applied to this particular project, detailing the various procedures and checks that will applied to the various stages of this construction project to ensure its timely and cost effecive completion. (Response to be a maximum of two A4 pages - size 12 font - single line spacing.)

Sub Criterion D2 - Approach to Health and Safety, Design - PSDP, 25 marks - Candidates are asked to demonstrate how they shall indentify potential safety hazards in the construction stages, in the operation of and in the maintenance of the proposed works and discuss how they manage these risks in the design process. Candidates may wish to submit past examples of design features, which they championed in past projects for this purpose. (Response to be a maximum of one A4 pages - size 12 font - single line spacing.)

Sub criterion D3 - Approach to Health and Safety, Construction, 25 marks - Candidates are requested to submit details of the procedures employed to review and approve works proposals from the PSCS contractor. Candidates should also provide details of how they normally raise, record and ensure compliance with health and safety issues that arise on site. (Response to be a maximum of one A4 pages - size 12 font - single line spacing.)

Sub Criterion D4 - Sustainability, 50 marks

Describe, as a statement of commitment, the practical measures that the design team will implement through the project lifecycle to ensure that the services required are delivered in a sustainable manner.

Non-exhaustive list of factors to be considered in response: On site and off site practices and procedures, (e.g. facilities/premises, products, supply chain, social inclusion and transport), and the metrics by which sustainability achivements are to be captured and demonstrated, which contribute to the Tenderer's specific carbon reduction targets (such targets are to be set out in the Tenderers submission) and to the Tenderer's positive sustainability performance and a description of where the Tenderer has demonstrated sustainability achivements with reference a completed project and/or on-going operations. (Response to be a maximum one A4 pages - size 12 font - single line spacing.)

Notes:

A limit has been set for each response to each question but Candidates are allowed 27 pages in total for their responses. Candidates can use 1.5 line spacing but are not allowed to exceed twenty seven (27) A4 pages or reduce the font size.

No information booklets or brochures should be included in the submission.

Applicants are also asked to submit a detailed programme of works detailing both the personnel and the hours assigned to each task of the design process and the programming of that task within each project as a whole. This information may be used inconjunction with and to provide clarity to the information supplied for quality assessment under criterion A-D. The programme is not included in the 27 page count.

Additional Information to be submitted with tender	*N/A*

Deposit (Instructions section 5.15)	Deposit required on issue of hard copies of tender documents	Not Applicable

Intellectual Property Rights	*Copyright in the consultant's design documents is to pass to the Client, which shall include both iconic visual image and detailed designs.*
Project Supervisor (Instructions section 5.11)	*The consultant or its nominee will be appointed as Project Supervisor for the design process under the Safety, Health and Welfare (Construction) Regulations 2013.*
Assigned Certifier (Instructions section 5.12)	*The consultant or its nominee will be appointed as Assigned Certifier under the Building Control (Amendment) Regulations 2014.*
Design Certificate (Instructions section 5.13)	*The consultant or its nominee will be required to sign the Design Certificate in accordance with the Building Control (Amendment) Regulations 2014.*
Letter to Successful Tenderer (Instructions section 10.3)	The Contracting Authority may issue to the Tenderer who submitted the most economically advantageous tender a *Letter to Successful Tenderer* requiring that Tenderer to submit to the Contracting Authority prior to any contract award any or all of the following: evidence that the insurances required by the Contract are in place (including Professional Indemnity Insurance) evidence of tax clearance Safety and Health Declaration MF2.4 and MF2.5

	any required appointment as project supervisor for the design process [and others as required] Collateral warranties for specialist skills to be provided by a sub-contractor Where applicable and where requested by the Contracting Authority, duly executed reliance guarantees, reliance warranties and/or collateral warranties in respect of entities relied upon relied upon by the Tenderer for pre-qualification any other documents the Contracting Authority considers appropriate
Rates for Time Charges (Instructions section 9.5(c)(i))	The rates for time charges which will be inserted in Schedule B shall be as tendered in the Form of Tender. The grades listed in the Form of Tender shall have the meaning stated hereunder: [to ensure comparable rates are obtained, include explanation of what is meant by each grade - e.g. qualifications, number of years' experience, etc] Project Director - suitably qualified Chartered Engineer with minimum 10 years experience in civil engineering, including significant urban enhancement design and construction experience Project Manager - suitably qualified Chartered Engineer with minimum 7 years experience in civil engineering including signficant urban enhancement design and construction experience. Senior Civil Engineer - suitably qualified Chartered Engineer with minimum 7 years experience in civil engineering, including significant urban enhancement design and construction experience Project Design Engineer - suitably qualified Civil Engineer in excess 5 years experience working on civil engineering and urban enhancement projects. Employers Representative - suitably qualified Civil Engineer in excess of 7 years experience in the supervision of civil engineering and urban enhancement projects. Resident Engineer - suitably qualified Civil Engineer in excess of 7 years experience in the supervision of civil engineering and urban ehancement projects. Technician - National Diploma in Civil Engineering in excess of 3 years revelant experience. Administrator - office support with minimum 1 years experience. Note - the same person may perform more than one role providing they are suitably qualified to do so. However, the rate should remain constant for that person. The qualifications referenced shall refer to the National Framework of Qualifications on http://www.nfq-qqi.com. Experience shall be in minimum 1/4 year segments.
Notional Hours for Assessment Purposes	Project Director - 10 hours Project Manager - 30 hours Senior Civil Engineer - 60 hours Employers Representative - 200 hours

(Instructions section 9.5(c)(i))	Project Design Engineer - 200 hours Technician - 125 hours Project Supervisor for Design Process - 20 hours Administrator - 20 hours Resident Engineer - 320 hours
Notional Capital Value for Assessment Purposes (Instructions section 9.5(c)(ii))	Where the Particulars indicate that percentage fees to be tendered, the notional capital value which will be used for the purposes of assessment is *N/A*
Tender Percentage (Instructions section 9.5(c)(ii)	Where the Particulars indicate that percentage fees are to be tendered, the stage at which the percentage will be converted to a lump sum is: [*N/A*