An Roinn Oideachais agus Óige
Department of Education and Youth

Planning and Building Unit

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Guidance on Procuring Consultants for Small Works

Projects with capital value of €1 million or less (Type 1 Projects)

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1. Introduction

1.1 General Principles for Devolved Projects

The Department of Education provides grant aid to School Authorities (Contracting Authorities) for the delivery of small works via Devolved delivery. A devolved project allows individual school authorities the means to address their approved accommodation and building priorities with a guaranteed amount of funding and gives them day to day control of their building project. It is a central tenet of the devolved schemes that **responsibility for the management** of a project, including cost control, start and completion dates, rests with the School Authority (Contracting Authority).

Where applications are being made by School Authorities (Contacting Authorities) under a particular scheme (e.g. Summer Works Scheme, or Emergency Works) the inclusion of a Technical Report with the application is an essential requirement of the application process. For other small works under such schemes as Additional Accommodation or Modular Accommodation Replacement, funding approval is based on determination of need, and a technical report is generally not required**.**

This document sets out the procedures to be followed for the Engagement of Consultant(s) for Small Works (including Summer Works and Emergency Works projects) and should be read in conjunction with the Administrative Procedures governing the particular Scheme.

For details of the terms and conditions of a particular scheme refer to the documentation issued with the relevant scheme.

1.2 Definitions

For the purpose of this document the term School Authority(Contracting Authority) means the Board of Management or other body legally entrusted with the management of the School.

A Design Team refers to all the professional advisors engaged by the School Authority for the project.

1.3 Scope of Professional advice

The engagement of appropriate professional advice is essential for both (a) the **preparation of the initial technical reports** (Section 2 below), and (b) **all other technical advice for construction projects** (Section 3 below). **These are two separate appointments.**

(a) Professional Advice for a Technical report

When engaging professional advice for the preparation of a report, the School Authority(Contracting Authority) must appoint the relevant consultant for that task only and must not enter into any commitments regarding an overall appointment or fees for works other than the preparation of the report and must make this clear to the Consultant before the appointment is made.

(b) Professional Advice for Construction Projects

For most projects with an estimated construction value of less than €500,000 (excl. VAT) a full design team is not normally required. Unless the project is particularly complex and difficult, the appointment of a single Consultant (with relevant advice from other disciplines) may be appropriate.

To ensure that the School Authority (Contracting Authority) obtains value for money and keeps control of costs at all stages through the project it is recommended that, for projects below €500,000, the Consultant's scope of works includes buying in the advice of a Registered Quantity Surveyor, who will provide independent building cost control services.

For projects with an estimated construction value between €500,000 and €1,000,000 exclusive of VAT the appointment of a single Consultant is not considered appropriate. For projects in this category an Architect led Design Team should be appointed (i.e. a Registered Architect with bought in services in the quantity surveying, building services, civil/structural engineering disciplines). There may be exceptions to this in the case of projects comprised entirely of specialist works such as mechanical and electrical works, structural repairs or civil engineering works where a single consultant may still be appropriate; however, in these cases it is essential that the services of a quantity surveyor are bought in to ensure proper cost control.

For projects up to €750,000 (excl. VAT) in value the Design Team may be led by a Registered Building Surveyor with bought in services as required in the quantity surveying, building services and civil/structural engineering disciplines.

The Building Control (Amendment) Regulations 2014 are an important statutory requirement intended to improve the standard of building construction in Ireland and came into force on 1st March 2014. These regulations apply, in most cases, to each of the categories of projects above. For more information see Section 3.3 and Appendix A herein.

Whether for the preparation of a report or for professional services including design and contract supervision, the appropriate consultants to be appointed (and the range of appropriate professional advice) will vary from project to project.

Refer to Technical Reports and Consultants for Construction Projects.

1.4 Appropriate Consultants for Type of Work

Whether for a report or for a construction project, the School Authority(Contracting Authority) must select an appropriate consultant (an individual consultant or a consultancy firm) for the type of work being recommended as follows:

- Additional Accommodation greater than **€500,000** (both permanent and prefabricated(modular), with a substantial element of Design. (Projects with a substantial element of design include projects where there are implications for the future development of the school (e.g. a major Project is in Architectural Planning or is envisaged within the medium term) or projects with a conservation element.)
  - The consultant **must be** a Registered Architect (not a Chartered Engineer, Registered Building Surveyor or Registered Quantity Surveyor).
- Straight forward Additional Accommodation less than **€750,000** and greater than **200m²** (both permanent and pre-fabricated)
  - The consultant may be a Registered Architect or a Registered Building Surveyor (but not a Mechanical & Electrical Engineer, Chartered Civil/Structural Engineer or Registered Quantity Surveyor).
- Straight forward additional Accommodation less than **200m²** (both permanent and pre-fabricated)
  - The consultant may be a Registered Architect, Chartered Civil/Structural Engineer, or a Registered Building Surveyor (but not a Mechanical & Electrical Engineer or Registered Quantity Surveyor).
- Repairs/remedial works related to the fabric of the building (e.g. major roof repairs, windows, toilet refurbishment/up-grade, H&S works, etc.)
  - For works greater than **€750,000** or complex projects, the consultant must be a Registered Architect
  - For works without particular complexity less than **€750,000**, the consultant may be a Registered Architect, Chartered Civil/Structural Engineer, or Registered Building Surveyor (but not a Mechanical & Electrical Engineer or Registered Quantity Surveyor).
- Site works, drainage, structural integrity of the building
  - If the major element of the work comprises site works or drainage (e.g. car-parking, traffic management, effluent treatment, etc.), or to the structural integrity of the building (e.g. structural defects, concrete spalling etc.) the consultant must be a Chartered Civil/Structural Engineer (not a Registered Architect, M&E Engineer, Registered Building Surveyor or Registered Quantity Surveyor)
- Mechanical or Electrical Works
  - If the report refers to Mechanical or Electrical Works (e.g. Boiler, Heating installation, Electrical Installation, Fire alarm, etc.) a Building Services Engineering (Mechanical & Electrical) Consultancy Practice with a Chartered Engineer at director/ management level, qualified in the specific discipline (note general mechanical engineering qualifications are not appropriate for electrical projects) to complete final quality assurance checks and sign off, must be directly appointed. No other consultant is acceptable for this work and no subcontracting of this work is permitted.

- The consultant must have appropriate Professional Qualifications, Professional Indemnity Insurance Cover and previous experience in consultancy service of a similar nature. Architects, Building Surveyors and Quantity Surveyors must be registered and Engineers (both Civil/Structural and Building Services engineers) must be chartered. See below and also 4.5, "Validating the Preferred Tenderer's Suitability".
- The Consultant appointed for the preparation of a report must be Chartered or Registered in the appropriate discipline (see above for appropriate discipline). A Consultant who proposes to act solely

in a Project Management type role and who has to buy in the services of another Consultant to prepare the actual report is not acceptable **(see also 2.2).**

- The Consultant appointed for the project must be Chartered or Registered in the required discipline and must act as the lead consultant on the project, taking full responsibility for design and certification as required. Unregistered or non-chartered consultants who are leading consultancy firms and buying in registered or chartered expertise to sign certificates or certify on behalf of the firm are not acceptable.
- In the case of multi-disciplinary practices:
    - The Applicant must demonstrate that at least one Principal of the firm (Director or Partner) meets the qualification requirements under the Building Control Act 2007 applicable to the category of works for which appointment is sought. The firm must nominate a principal (director or partner) who meets the qualification requirements under the Building Control Act 2007 for the category of work being applied for. That individual shall be responsible, on behalf of the firm, for the quality, management and standard of services provided to the Department of Education under the Framework. If a firm provides more than one discipline on the project, a separate director meeting the qualification requirement for the relevant discipline must be responsible to the Department of Education & Youth for each particular service, on behalf of the firm.
    - Where a practice title includes the disciplines provided, all disciplines provided must be named.
- Consultants that are also works contractors will be considered to have a conflict of interest and will therefore not be eligible to tender for consultancy services for school projects funded by the Department of Education.
- It should also be noted that under the Building Control Act 2007, a body corporate, firm or partnership carrying on business under a name, style or title containing the word “architecture” must be under the control and management of a registered professional architect, i.e. at least one of the directors must be a registered architect.
- The same applies to the title “Quantity Surveying” and “Building Surveying”, i.e. a body corporate, firm or partnership carrying on business under either of these titles must be under the control and management of a registered Quantity Surveyor (in the case of the former) or a registered Building Surveyor (in the case of the latter).
- The registration of Engineers as Chartered Engineers is governed by the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969.
- The websites of the professional bodies include search facilities for checking the qualification status of members, including, in the case of Architects, Building Surveyors and Quantity Surveyors, their registration number. The following are the relevant professional bodies:

Architects	Royal Institute of the Architects of Ireland (RIAI)
Building Surveyors	Society of Chartered Surveyors Ireland (SCSI)
Quantity Surveyors	Society of Chartered Surveyors Ireland (SCSI)
Building Services Engineers	Engineers Ireland (IEI) and Association of Consulting Engineers of Ireland (ACEI)
Civil/Structural Engineers	Engineers Ireland (IEI) and Association of Consulting Engineers of Ireland (ACEI)

2. Technical Reports

2.1 Appropriate Consultants for Technical Reports

The School Authority (Contracting Authority) should refer to the documentation issued with the relevant Department Circular for advice on the scope of the technical report required.

When engaging professional advice for the preparation of a report, the School Authority must select an appropriate consultant (an individual consultant or a consultancy firm) for the type of work being recommended. Refer to 1.4 "Appropriate Consultants for Type of Work" above.

The School Authority (Contracting Authority0 must appoint the relevant consultant for that task only.

The School Authority (Contacting Authority) must not enter into any commitments regarding an overall appointment or fees for works other than the preparation of the report and must make this clear to the Consultant before the appointment is made.

When a School Authority engages professional advice to assist in the preparation of the initial technical report, the cost must be met in full out of the school's own resources.

The appointment of a Project Supervisor (Design) Process is not normally required for the preparation of a report.

2.2 Procurement of Consultants for Technical Reports

Where applications are being made by School Authorities (Contracting Authorities) under a particular scheme (e.g. Summer Works Scheme, or Emergency Works) the inclusion of a Technical Report with the application is an essential requirement of the application process. For other small works under such schemes as Additional Accommodation or Modular Accommodation Replacement, funding approval is based on determination of need, and a technical report is generally not required.

The Fee for the Technical Report **must be** a lump-sum fee (ex VAT). A lump-sum fee means a fixed price in Euros.

The School Authority (Contracting Authority) is required to:

- Seek a minimum of at **least 5 quotes** in writing or by email (from suitable consultants, see 1.4) so that a minimum of 3 written quotations will be received. It is necessary to contact prospective consultants to establish their interest in tendering before seeking quotations to ensure that at least three competitive quotations will be received.
- Consider any Consultant (being qualified in the appropriate discipline) who has expressed an interest in tendering for the project (e.g. by writing or emailing the school), and where that Consultant meets the minimum standard required, that Consultant must be included on the list of firms from whom quotes are to be obtained. (There is no upper limit on the number of consultants permitted to submit quotes.)
- Allow a reasonable time for submission of quotations. In general, a minimum of 7 - 10 working days should be given to allow time for visiting the site and preparing the report (in the case of emergency works it may be necessary to agree a shorter period with the tendering consultants).

Where an on-line application system is the required method for submitting applications to the Department by School Authorities (Contracting Authorities) (e.g. Summer Works Scheme) a Consultant's Report Template will be available to the School Authorities through the Esinet portal. This Template should be brought to the attention of consultants invited to tender for the preparation of the required technical report.

To enable the School Authority(Contracting Authority) to assess which firm to engage it is recommended that the following information be requested from the Consultants under consideration for the work:

- Evidence of experience in projects of a similar nature (either in the preparation of reports or carrying out the work), including experience in estimating costs.
- A VAT inclusive all-in lump-sum fee (including buying-in other services as required, plus all expenses).
- A list of the relevant other services where required, (including Quantity Surveying Services) which will be bought in for the preparation of the Technical Report, and confirmation that those service providers will be qualified professionals in the relevant discipline.
- A brief summary of the scope of work covered by the above lump-sum fee, including confirmation as to whether the Building Control (Amendment) Regulations 2014 will apply to the project if it proceeds, and a timescale for the delivery of the report.

In general, a single consultant, with qualifications appropriate to the main body of the work being proposed **(see 1.4),** is all that is required for the preparation of a report. However, where the proposed works are complicated in nature the tendering consultant may need to buy in additional expertise outside his/her own area of competence, e.g. a roof replacement project where the building's electrical or mechanical services are affected, an architect will need the expertise of a Building Services Engineer in order to complete the report and this should be included in the lump sum fee. The buying in of additional expertise, if necessary, is a matter for the tendering consultant.

To award the contract for the preparation of a report the School Authority (Contracting Authority) should first examine all tenders received. In general, the contract should be awarded to the tenderer who has submitted the lowest price if the School Authority (Contracting Authority) is satisfied that this tenderer meets the following minimum standards:

- is properly qualified,
- has experience of similar projects,
- has addressed the need, or otherwise, for additional bought-in expertise and
- has given a brief summary of the service to be provided for the tender sum.

Only in cases where little or no information has been provided to address the above points should the lowest tenderer be by-passed.

Where identical lowest prices have been tendered by more than one consultant, the contract should be awarded to the tenderer that most exceeds the minimum standards.

If a consultancy firm is under consideration for appointment, the School Authority (Contracting Authority) should also seek confirmation of appropriate Professional Qualifications, Professional Indemnity Insurance and Employer's Liability Insurance. See also **validating the preferred tenderer's suitability**

If fewer than 5 firms submit tenders, the Contracting Authority should only proceed with an award if it considers that there has been **genuine competition** and that the tender being considered for acceptance represents value-for-money.

For a technical report (as above) a formal contract is not required. A simple letter of appointment summarising the agreed scope of work should suffice. The level of fee (in Euros, not %) should be confirmed in the letter of appointment and must relate to the preparation of that report only.

A standstill period is not required before awarding the contract.

Out of courtesy an email should be sent to the unsuccessful tenderers explaining briefly why they were not awarded the contract (e.g. your tender was not the lowest price, or, you did not meet the qualification requirements, or, while your tender was joint lowest with another tenderer your experience of similar projects was not as great as the successful tenderer / you did not address the need to buy in other services / you did not give a brief summary of the service to be provided).

If there is potential for cross-border interest, including from Northern Ireland, it is important to ensure that the principles of transparency and non-discrimination are observed throughout the procurement process.

3. Consultants for Approved Construction Projects

3.1 General

For all projects the engagement of appropriate professional advice is essential. On receipt of a letter approving funding for a particular project, the School Authority (Contracting Authority) may then commence the process to appoint an appropriate consultant.

School Authorities are not allowed to appoint a consultant for the project (other than for the initial Technical Report) until funding for the project has been approved.

The appointment of an appropriate consultant for the project (i.e. the design and contract supervision stage) is a separate appointment process to the engagement of a consultant for the Technical Report.

School Authorities **are not allowed** to extend the appointment of the consultant for the Technical Report to include the design and contract supervision stages. A separate tender process must take place.

For most small works projects a full design team with each member separately appointed is not required. Unless the project is particularly complex and difficult, the appointment of a single consultant may be appropriate as long as relevant advice from other disciplines (e.g. Quantity Surveyor, Structural Engineer, M&E Engineer, Architect or other relevant discipline) is included as part of the consultant's service (see also Section **1.3** above).

When engaging professional advice for a building project (including temporary accommodation or repairs), the School Authority (Contracting Authority) must select an appropriate consultant (an individual consultant or a consultancy firm) for the type of work being recommended. Refer to Appropriate Consultants for type of work above.

The Fee for the consultancy appointment must be a lump-sum fee (ex VAT). A lump-sum fee means a fixed price in Euros and must include the cost of "buying in" the relevant advice of other disciplines (including Quantity Surveying Services).

When funding has been approved and a School Authority (Contracting Authority) engages professional advice to carry out a building project the cost of such professional services (including VAT and all expenses) must be met in full out of the approved grant.

3.2 Project Supervisor Design Process (PSDP).

For all construction projects it is a legal requirement to appoint a competent person to act as Project Supervisor (Design) Process. This is a separate appointment with a separate fee that should reflect the nature and complexity of the project. [See Section 5 Project Supervisor (Design) Process]

3.3 Building Control (Amendment) Regulations 2014

Compliance with the Building Control (Amendment) Regulations 2014 (BCAR) is a statutory requirement for applicable projects. The objective of these Regulations is to improve building quality and compliance by ensuring that all parties involved in the design, construction and regulatory processes fulfil their respective responsibilities effectively.

The Regulations place specific obligations on the Building Owner, Designers and Builder, including the requirement for the Building Owner to appoint an Assigned Certifier. The Assigned Certifier is responsible for inspecting the works during construction, coordinating the inspection activities of other members of the design and construction teams, and certifying, on completion, that the building or works have been constructed in accordance with the Building Regulations.

This requirement has applied to relevant developments since 1 March 2014.

The BC(A)R apply to all new build and extension projects (except extensions to dwellings less than 40m^2 in floor area) and to all projects that require a Fire Safety Certificate. For the majority of projects under the Summer Works Scheme and for many Emergency Works projects the BC(A)R may not apply; however, they will apply to all projects under the Additional Accommodation Scheme and the Prefab Replacement Scheme..

In the case of refurbishment/repair type projects, if the Technical Report prepared for the project does not confirm whether the BC(A)R applies you should check with the Consultant who prepared the report.

For projects covered by this guidance and where BC(A)R applies, the appointed Consultant will act as Assigned Certifier and the cost of providing this service will be included in the tendered fee.

For more information on the Building Control (Amendment) Regulations 2014 see **Appendix A** herein.

3.4 Advertising Requirements.

The following requirements apply:

- When the aggregated estimated value (total fees) of all consultancy appointments for a project is **greater than €50,000 (excluding VAT)** (In general this category of projects is where the grant allocation is between €550,000 and €1,000,000) the tender opportunity must be advertised on www.eTenders.gov.ie using the procedure outlined in Section 4.3 below.

- When the aggregated estimated value (total fees) of all consultancy appointments for a project is **below €50,000 (excluding VAT)** the consultancy appointments do not have to be advertised on www.eTenders.gov.ie and the school authority (contracting authority) can seek 5 quotations as per Section 4.2 below.

- If there is the possibility of cross-border interest you must place tender competition on www.eTenders.gov.ie even if the aggregated estimated value (total fees) is below €50,000 (excluding VAT).

4. Seeking Tender Submissions

4.1 Competitive Tender Process

All consultants are appointed through a competitive tender process in which tenders are evaluated based on both quality and price. A total of 100 marks is available. Quality criteria account for 70 marks and comprise three separate criteria, as detailed in **Appendix E (Tender Proposal Form)** and repeated in Sections **4.2** and **4.3** of this document. The remaining 30 marks are allocated to price, which is assessed on the basis of the tendered fee submitted in the **Form of Tender (Appendix D).**

4.2 The contract will be awarded to the tenderer achieving the highest overall score following the evaluation of both quality and price in accordance with the published award criteria and methodology. Projects where the aggregated estimated value (total fees) of all consultancy appointments for the project is below €50,000 (excluding VAT).

In general, this category of projects is where the grant allocation is €550,000 or less.

- Seek a minimum of at **least 5 tender submissions** in writing or by email (from suitable consultants) so that a minimum of 3 tender submissions (in writing or by email) will be received (including VAT).
- Consider any Consultant (being qualified in the appropriate discipline) who has expressed an interest in tendering for the project (e.g. by writing or emailing the school), and where that Consultant meets (or declares that they meet) the minimum standard required, that Consultant **must** be included on the list of firms from whom tender submissions are to be obtained.
- (There is no upper limit on the number of consultants permitted to submit tender submissions.)
- Before issuing tender documents, it is necessary to contact all of the firms from which tenders are being sought and establish their interest in tendering for the project. If some firms are not interested in tendering it may be necessary to contact additional firms in order to ensure an adequate tender response.

To seek tenders the School Authority(Contracting Authority) should send the following documents to their selected list of a minimum of five consultants (being qualified in the appropriate discipline) including all the consultants who have contacted the school (in writing or by email) wishing to be included on the Tender List.

- Letter of Invitation to Tender (see Sample Invitation to Tender letter at **Appendix B**).
- A brief outline of the proposed project including any relevant information (such as the size, nature and scope of the project or any particular constraint or difficulty which in the view of the School Authority (Contracting Authority) may influence the project). (This may be included in the Letter of Invitation or appended to it as a separate document.)
- A copy of the Technical Report (if applicable), (excluding the insurance details of the Consultant who prepared the report), and the approval letter from the Department (including appendices 2, 3 and 4 which accompany the letter of approval).
- A copy of the Form of Tender at **Appendix D**, and
- A copy of the Tender Proposal Form **Appendix E.**

Appendix D and **Appendix E** are available for downloading as separate Word documents on the Department of Education and Youth website at https://www.gov.ie/en/department-of-education/publications/appointment-of-consultants/

The covering email/letter should include the time and date for return of Quotes/Tender Submissions (allow at least 2-3 weeks).

It should also say that tender submissions must be in the format described in the Tender Proposal Form.

The tender submissions (returned by the consultants) should comprise:

- The Form of Tender and declaration at **Appendix D** signed by a member of the firm.
- The Tender Proposal form at **Appendix E** signed by a member of the firm including:
  - The Project Service, i.e. a comprehensive schedule of the services to be provided and the resources to be applied and allowed for in the tendered fee, the name of the qualified person within the firm who will undertake the work, and a list of the relevant other services required (including Quantity Surveying Services) which will be bought in, including confirmation that those service providers will be qualified professionals in the relevant discipline (See Section 1.4 above). *[Even for relatively low value small projects it would be unusual for a single consultant to*

be equipped to provide all the services required, for example a relatively small extension project will require the bought in services of a Structural/Civil Engineer to carry out structural design calculations.] Where the Building Control (Amendment) Regulations 2014 apply to the project, a commentary is required on how the firm intends to comply with these regulations, including acting as Design Certifier and Assigned Certifier and, as Assigned Certifier, drawing up and implementing an Inspection Plan for the project, as part of the overall service to be provided (25 marks available).

- A brief commentary on why the firm is competent to carry out the works and the skills they will bring to the project and the experience they have of delivering projects of a similar size, nature and complexity within the last 7 years (25 marks available).
- How the firm will deliver the project including how the project will be completed on time and within budget, and in the case of additional accommodation how it will be carried out without adversely affecting future expansion (20 marks available).

No other information is necessary or should be considered.

4.3 Projects where the aggregated estimated value (total fees) of all consultancy appointments for the project is above €50,000 (excluding VAT).

In general this category of projects is where the grant allocation is between €550,000 and €1,000,000.

- The School Authority (Contracting Authority) must advertise the tender opportunity on www.eTenders.gov.ie and upload all information.
- Where any Consultant (being qualified in the appropriate discipline) has expressed an interest in tendering for the project (e.g. by writing or emailing the school), and where that Consultant meets (or declares that they meet) the minimum standard required, that Consultant **must** be notified that a contract notice has been uploaded on the eTenders website from which, upon registering their interest, all necessary tender instructions and documentation can be obtained.
- (There is no upper limit on the number of consultants permitted to submit tender submissions.)
- In order to ensure an adequate tender response, it is advisable to contact any suitably qualified firms that may be known to the School Authority(Contracting Authority), or that may have worked successfully for the School Authority in the past, and advise them of the tender opportunity to be accessed through eTenders.

The School Authority (Contracting Authority) should attach the documentation as listed below to the contract notice to be up-loaded on eTenders.

Appendix D and **Appendix E** are available for downloading as separate Word documents from Department of Education and Youths website

- Letter of Invitation to Tender (see Sample Invitation to Tender letter at **Appendix C).**
- A brief outline of the proposed project including any relevant information (such as the size, nature and scope of the project, or any particular constraint or difficulty which in the view of the School Authority (Contracting Authority) may influence the project). (This may be included in the Letter of Invitation or appended to it as a separate document.)
- A copy of the Technical Report (if applicable), (excluding the insurance details of the Consultant who prepared the report), and the approval letter from the Department (including appendices 2, 3 and 4).
- A copy of the Form of Tender at **Appendix D**, and
- A copy of the Tender Proposal Form **Appendix E.**
- The School Authority (Contracting Authority) at all times may choose to engage a separate PSDP (not being the main Consultant for the project). If the School wishes to engage a separate PSDP they should make it clear to consultants tendering that the role of PSDP is not part of the tender competition.

The contract notice must state the date, location and method for the receipt of tender submissions. A minimum of 15 working days should be allowed between the date of publication of the contract notice and receipt of tender submissions.

The tender submissions (returned by the consultants) should comprise:

- The Form of Tender and declaration at **Appendix D** signed by a member of the firm.
- The Tender Proposal form at **Appendix E** signed by a member of the firm including:
  - The Project Service, i.e. a comprehensive schedule of the services to be provided and the resources to be applied and allowed for in the tendered fee, the name of the qualified person

within the firm who will undertake the work and a list of the relevant other services required (including Quantity Surveying Services) which will be bought in, including confirmation of the names of those service providers and that their services will be provided by qualified professionals in the relevant discipline (See Section 1.4 above).

Where the Building Control (Amendment) Regulations 2014 apply to the project, a commentary is required on how the firm intends to comply with these regulations, including acting as Design Certifier and Assigned Certifier and, as Assigned Certifier, drawing up and implementing an Inspection Plan for the project, as part of the overall service to be provided (25 marks available).

- A brief commentary on why the firm is competent to carry out the works and the skills they will bring to the project and the experience they have of delivering projects of a similar size, nature and complexity within the last 7 years (25 marks available).
- How the firm will deliver the project including how the project will be completed on time and within budget, and in the case of additional accommodation how it will be carried out without adversely affecting future development and expansion (20 marks available).

No other information is necessary or should be considered.

For projects in this category an Architect led Design Team is generally what is required (i.e. a Registered Architect with bought in services in the quantity surveying, building services, civil/structural engineering disciplines).

There may be exceptions to this in the case of projects comprised entirely of specialist works such as mechanical and electrical works, structural repairs or civil engineering works where a single consultant may still be appropriate; however, in these cases it is essential that the services of a quantity surveyor are bought in to ensure proper cost control.

For projects up to €750,000 (excl. VAT) in value the Design Team may be led by a Registered Building Surveyor with bought in services as required in the quantity surveying, building services and civil/structural engineering disciplines.

The "Essential Elements in Scope of Service to be included in Tender" at the end of the Tender Proposal Form sets out the basic scope of service required to be covered in the tendered fee. It is there as a guide to tendering consultants on the minimum level of service required but does not relieve tenderers from the requirement to describe the scope of service they intend to provide and the resources included in their tender to deliver the service.

4.4 Assessing the Tender Submissions

Upon expiry of the tender submission deadline, all tender submissions shall be received and recorded. Access to pricing information shall be restricted until the quality evaluation has been completed and the quality scores have been finalised. A minimum of two people must be present for the opening of tenders. A formal record of tenders received, opened and tender amounts must be made. Tenders received after the closing date and time should be returned unopened (unless it is necessary to open the tender to identify the tenderer).

The School Authority (Contracting Authority) must be satisfied that there is no conflict of interest for any individual participating in the assessment process.

Tender assessment must be based only on the information submitted by tenderers in response to the tender documents and not on any pre-existing knowledge.

A record of the tender assessment should be retained by the School Authority (Contracting Authority).

There are 4 award criteria:

(1) Project Service
(2) (Competency of firm
(3) Project Delivery
(4) Price.

The Quality Criteria shall be evaluated, and the associated scores fully agreed and finalised before any tender prices are released or price scores are calculated. Once the quality evaluation has been completed, all final quality scores should be entered into the **DEY Excel Tender Evaluation Matrix (Type 1 Projects)**, which can then be used to calculate the price scores and determine the overall tender ranking.

To maintain the integrity of the evaluation process and ensure the separation of quality and price assessments, it is advisable to appoint an individual who is not involved in the evaluation of tenders to

manage the distribution of tender information, control access to pricing submissions, and independently record the agreed scores used in the final evaluation. This person should be responsible for calculating and recording the price scores and overall tender results once the quality evaluation has been completed.

- **Quality Marks**

  Responses to Criteria 1, 2 and 3 shall be contained within the Tender Proposal Form. These responses shall be evaluated, and the associated quality scores finalised before any pricing information is considered. **Criterion 1** and **Criterion 2** are each allocated a maximum of **25 marks**, while **Criterion 3** is allocated a maximum of **20 marks**. The maximum total available for the Quality Criteria is therefore **70 marks**.

  The minimum standard for a pass mark is 40% of the available marks for each criterion. Tenderers who fail to get a pass mark on any one criterion should be excluded. **DEY Excel Tender Evaluation Matrix (Type 1 Projects)** should be used to capture the awarded scores.

  - As a guide, if the submission is adequate, (i.e. if you feel confident that the firm has adequate skills (relative to that criterion) to act as your consultant), then the appropriate mark is a pass mark.

    Where the Building Control (Amendment) Regulations 2014 apply to the project it should be noted that the preparation and implementation of an Inspection Plan by the Assigned Certifier is a key requirement **(see Appendix A).** In assessing tenders, inspection visits to site during the construction period should, on average, be at intervals of no greater than two weeks at a minimum.
  - Higher marks are for a greater level of skill.
  - If you are not satisfied that the firm has adequate skills (relative to that criterion) to carry out the project, then a failure mark is appropriate,

  The Tenderer considered to have the highest technical merit in each criterion should be given the maximum marks available for that criterion. All other tenders should be marked for each criterion relative to the tender assessed as having the highest technical merit for that criterion.

- **Price Marks**

  Exclude any firms that did not get a minimum of a 40% mark on each of the individual Quality Criteria above **DEY Excel Tender Evaluation Matrix (Type 1 Projects) should be used to calculate the price scores. All tenderer names and prices should be inserted in the document which will calculate the relevant price score for each tenderer.**

  A maximum of **30 marks** is available for price. The Tenderer remaining in the competition with the **lowest evaluated tender price** shall receive **30 marks**. The scores of all other Tenderers shall be determined by comparing their tendered prices to the lowest evaluated tender price using the prescribed price evaluation formula.

  For each of the other qualifying tenderers deduct 0.5 % of the price marks for each 1% difference between the qualifying tender under consideration and the lowest price.

  The price for assessment purposes is that stated at "**Total: Fixed Price Lump Sum Fee**" in the Form of Tender.

By way of example, the following illustrates how scores are awarded: Tenderer Q with a lump sum price of €12,000 had the lowest price of all qualifying tenderers. Tenderer X with a lump sum price of €16,750 also qualified on quality (is still in the competition).

Calculate Tenderer X's price marks as follows:

1. Difference between Tenderers X's price and Tenderer Q's price is €4,750 (i.e. 16,750 – 12,000)
2. €4,750 as a percentage of €12,000 is 39.58% (i.e. 4750/12000 x 100). Tenderer X's price is 39.58% dearer than Tenderer Q's price
3. Applying the formula "deduct 0.5% of the price marks for every 1% difference between the qualifying tender under consideration and the lowest price", the percentage deduction in price marks for Tenderer X is 39.58 x 0.5 = 19.79%
4. Tenderer X's price marks are 30 minus 19.79% of 30, i.e. 30 – 5.94 = 24.06; round to 24

The above calculations can be expressed in the following formula:

Price Mark for any tenderer = $A \times \left(1-(½ \frac{(B-C)}{C})\right)$

Where:

A=Total Price Marks

B= Tender price of tender under consideration

C=Lowest eligible tender price

(The minimum price mark is 0 marks – there are no negative marks).

Fraction/ decimals of marks shall be rounded up to one decimal place

- **Total Marks (Final Score)**
  Add the quality and the price marks for each qualifying tenderer. The firm with the highest total marks is the Preferred Tenderer.

4.5 Validating the preferred tenderer's suitability

Now you need to check the qualifications, experience, Health and Safety Competence, insurances, tax clearance of the preferred tenderer.

You do this by writing a Letter of Intent to the firm in question asking for the relevant evidence (see template letter **Appendix F**).

When the information is returned check to see that it is complete and that the firm does meet the necessary standard.

The required standard for the qualifications of the person proposed for the project is as follows:

- All consultants must hold an appropriate degree or diploma qualification relevant to their discipline or have successfully completed an assessment process prescribed under the relevant legislation (including, where applicable, the Building Control Act 2007).
- Architects must be Registered Architects under the Building Control Act 2007.
- Building Surveyors and Quantity Surveyors must be Registered Building Surveyors or Registered Quantity Surveyors, as appropriate, under the Building Control Act 2007.
- Engineers must be Chartered Engineers.
- Equivalent qualifications obtained in another EU Member State, and membership of an equivalent professional body within an EU Member State, shall be accepted where they confer equivalent professional standing in accordance with Directive 2005/36/EC on the recognition of professional qualifications. The Building Control Act 2007 gives effect to the relevant provisions of Directive 2005/36/EC in Ireland. In accordance with that Directive, access to registration as an Architect, Building Surveyor or Quantity Surveyor may be available for the purposes of establishment in the State or for the provision of services on a temporary and occasional basis.

Where a consultant is a Sole Trader, Employer's Liability Insurance is not required but the consultant must have all other Insurances.

*The **Registration of Business Names Act 1963** requires a Sole Trader to register their business name with the Companies Registration Office where that business name differs from the Sole Trader's own name. A Sole Trader must also register with the Revenue Commissioners as a self-employed person.*

A Sole Trader may cease trading at their own discretion and does not require a formal winding-up process. However, the Sole Trader remains personally liable for any debts, obligations or other liabilities incurred in the course of the business prior to ceasing operations.

Where the preferred Tenderer has submitted a fee that is significantly lower than the other tenders received, the Contracting Authority should seek clarification in writing before proceeding with the award. The Tenderer should be requested to review its tender in detail and be given the opportunity to either:

(a) provide a detailed explanation demonstrating how the required services can be delivered for the tendered fee, including:

i. the calculation of the professional input hours included within the tendered fee and the allocation of those hours across the various services and tasks required under the contract;
ii. confirmation that the tendered fee and proposed service delivery arrangements comply fully with all applicable statutory obligations and other legal requirements; and
iii. details of any services to be provided by sub-consultants or other service providers, including the professional input hours included within the fees for such services and the allocation of those hours across the relevant tasks and deliverables;

or

(b) withdraw its tender.

Following receipt and assessment of the Tenderer's response, the Contracting Authority shall determine whether the tender is sustainable and capable of delivering the required services in accordance with the contract requirements.
The School Authority (Contracting Authority) should make it clear to the tenderer that it will not accept a curtailed service due to low tendered fees. In this regard it should also be made clear to the tenderer that offloading structural design or building services design to the tendering works contractors is not acceptable – all works must be fully co-ordinated, designed and detailed by the appointed consultant before seeking tenders.

The preferred bidder should be given a definite timescale in which to respond (say, 7 working days) and should be informed that failure to respond within the stated time will be deemed to be a withdrawal of their tender.

If the preferred Tenderer does not provide the required evidence within the specified timeframe, fails to satisfy the required standard (for example, where the proposed individual does not possess the necessary qualifications or experience), or withdraws its tender, the Contracting Authority may exclude that Tenderer from the competition.

Following the exclusion or withdrawal of a Tenderer, the tender evaluation shall be recalculated to reflect the remaining Tenderers. For example, where the excluded or withdrawn Tenderer had received the highest price score by virtue of having submitted the lowest tendered fee, the price evaluation shall be re-run and the price scores recalculated based on the revised lowest tendered fee among the remaining Tenderers.

When you have confirmed that the preferred bidder meets the necessary requirements (as above), you are now ready to appoint that firm. Refer to Appointment of Consultants for how to complete the process and prepare a contract (Conditions of Engagement and Schedules) for signature by both parties.

If fewer than five firms submit tenders (in writing or by email), the School Authority (Contracting Authority) should only proceed with an award if it considers that there has been **genuine competition** and that the tender being considered for acceptance represents value-for-money. (It is important to ensure that the principles of Transparency and Non-Discrimination are observed.)

5. Project Supervisor (Design) Process

5.1 Legal Obligations

For all construction projects (including refurbishment & repairs) it is a legal requirement to appoint a competent person to act as Project Supervisor (Design) Process [PSDP].

This is a separate appointment with a separate fee that should reflect the nature and complexity of the project.

As part of, or in addition to, the general duties of the **Project Supervisor Design Process (PSDP)** under the **Safety, Health and Welfare at Work (Construction) Regulations 2013**, as amended from time to time, the scope of services shall include the following:

- Undertaking an assessment of all relevant safety and health issues associated with the project;
- Preparing and maintaining the Preliminary Safety and Health Plan in accordance with the applicable legislative requirements;
- Assisting the Client in assessing the competence and suitability of contractors proposed for appointment as Project Supervisor Construction Stage (PSCS); and
- Preparing, compiling and assembling the Safety File, based on information provided by the Design Team, Contractors and other relevant parties, and ensuring that it is completed and handed over to the Client at project completion.
-
- These services shall be carried out in accordance with the duties of the Project Supervisor Design Process (PSDP) as set out in the Safety, Health and Welfare at Work (Construction) Regulations 2013, as amended.

It is not a requirement that the consultant engaged to carry out the Architectural or Engineering services should also be appointed as PSDP. Unless the School Authority (Contracting Authority) is satisfied that the firm under consideration is competent to act as PSDP, it should not appoint that firm to the role of PSDP. Only those firms who have demonstrated competence should be considered for appointment.

It is a requirement of the Health Safety and Welfare at Work (Construction) Regulations that the Client, (in this case the School Authority (Contracting Authority))**) satisfies itself that the individual engaged to act as PSDP is competent to carry out that role.**

The appointment of a Project Supervisor (Design) Process is not normally required for the preparation of an initial Technical Report.

5.2 Procurement of PSDP for a building project

First proceed with the tender competition for the main Consultant and issue the Letter of Intent to the preferred bidder. When you are satisfied that the preferred bidder meets the minimum requirements as outlined in the Letter of Intent (See Validating the preferred tenderer's suitability), but before you issue the Letter of Acceptance, you should deal with the appointment of the PSDP and the fees for PSDP services.

To do this refer to the form of tender for the preferred bidder:

- The form of Tender has an optional section where the tenderer can state whether they are both competent and willing to carry out the role of PSDP.
- If the estimated capital value of the project is less than €1,000,000 and the preferred bidder has declared himself/herself both competent and willing, you should then negotiate a price with that firm for the service.
  - For normal projects (i.e. without special H&S considerations – like asbestos), the cost of the service should be about €1600 plus 0.5% of the estimated project value (see explanation in "*Calculating the PSDP fee*" below).
  - The fee must be a fixed price in Euros and not a variable amount. (€1600 plus 0.5% of the estimated project value is not a fixed fee!)

    For example, on a roof repair project (without special H&S complexities) of €300,000, one would anticipate a fee for circa €3,100
  - For projects with special H&S considerations, one would anticipate a higher level of training and competence and a slightly increased fee.
  - If you cannot agree a fee within these guidelines you should indicate to the preferred bidder that you will not be availing of their services as PSDP and proceed to procure a PSDP by other means (see Alternative procurement process for PSDP)

- For projects larger than €1,000,000 you should procure a PSDP by other means (see Alternative procurement process for PSDP).

Calculating the PSDP fee:
At this point in the process there are two known figures: (a) the recommended tender for the Consultant and (b) the overall grant amount allocated by the DEY. To arrive at the estimated project value for calculating the PSDP fee, subtract (a) from (b); divide the resultant by 1.135 to deduct the VAT. The figure arrived at is the amount, exclusive of VAT, that is available for the works. This is the "estimated project value" to which the 0.5% should be applied.

The Contract Sum for the service contract with the Consultant is the total of the tender sum plus the amount agreed for PSDP services and this total is the amount to be inserted into Schedule B (see 6.4).

5.3 Evidence of Competency

Next, you must verify the preferred bidder's competence. This is a legal requirement (see above) and is very important.

If the School Authority (Contracting Authority) appoint a PSDP without first verifying the PSDP's competence, the School Authority (Contracting Authority) **is guilty of a criminal offence**.

To be suitable to act as PSDP on a project an individual must both be aware of his/her responsibilities under the Safety, Health and Welfare at Work Act 2005 and the Safety Health & Welfare at Work (Construction) Regulations 2013 (or subsequent legislation/regulations) and have the resources and competency to carry them out.

- Competency can be demonstrated by professional qualifications and experience. While H&S training is important, the more important requirement is professional qualifications and experience in the relevant professional discipline
- H&S qualifications without experience in the construction process are not sufficient.
- For projects without special H&S considerations, the signed declaration at **Appendix G** plus professional qualifications (in a relevant discipline) and experience of the person proposed for the role of PSDP may be sufficient evidence of competency. Evidence of having fulfilled the role of PSDP in a satisfactory manner on previous projects would provide additional reassurance.
- If the project has special H&S considerations evidence of externally accredited H&S training for the role of PSDP may also be required. Other evidence that may be requested includes:
  - a copy of their current general health and safety policy,
  - an outline of the firm's management organisational structure with regard to allocation of duties, delegation of responsibilities etc., in relation to Health and Safety,
  - Copies of standard forms, templates or procedures used by the applicant when undertaking risk assessments and managing design-stage health and safety duties in accordance with the Safety, Health and Welfare at Work Act 2005 and the Safety, Health and Welfare at Work (Construction) Regulations 2013, as amended. Arrangements for continuing professional development.
- Details of the firm's procedures for disseminating information and up-to-date developments on health and safety issues.

Under validating the preferred tenderer's suitability you will be writing a letter of intent to the Consultant **(Appendix F)**. This Letter contains a section on the role of PSDP and describes the evidence of competency required. When the evidence is returned, make sure that:

- The H&S Declaration includes the role of PSDP or that a separate signed PSDP declaration is included
- Where enforcement actions, legal proceedings, accidents, fatalities or incidents have been recorded, evidence must be provided that adequate measures have been put in place by the applicant firm to address any deficiencies in their H&S procedures.
- The person to act as PSDP has appropriate professional qualifications and experience both in his/her professional discipline and in fulfilling the role of PSDP.

When you have confirmed that the preferred bidder meets the necessary requirements (as above), you are now ready to appoint that firm both as consultant and as PSDP. Refer to Appointment of Consultants

for how to complete the process and prepare a contract (Conditions of Engagement and Schedules) for signature by both parties.

5.4 Alternative procurement process for PSDP

The School Authority (Contracting Authority) at all times may choose to engage a separate PSDP (not being the main Consultant for the project). If the School wishes to engage a separate PSDP they should make it clear to consultants tendering that the role of PSDP is not part of the tender competition.

Equally, if the preferred bidder (to fulfil the role of consultant for the project) does not wish to be considered for the role of PSDP or is not considered by you to meet the standard required, or if a reasonable price for the service cannot be negotiated with the preferred bidder, then you may choose to procure a PSDP by other means.

- First get the help of your consultant (whether actually appointed or still a preferred bidder) in finding suitable firms to tender for the role. Such firms may include specialist H&S firms or those who were unsuccessful tenderers for the role of main consultant.
- Next write or e-mail the selected list (giving details of the project) and ask for a price for the role of PSDP and a declaration of competency for the role. As with other consultants you need to send them enough information to describe the scope of work – a brief cover note and a copy of the Technical Report (if applicable) and approval letter from the Department should suffice.
- Most firms will provide back-up evidence of competency with their tender submission, but this is not essential at this stage.
- Select the firm with the best price for the project (check that there are no onerous terms and conditions) and if no evidence of competency was included with the quote write to that firm requesting such evidence (See **Evidence of Competency** above)

When you are satisfied as to the competency of the preferred firm you are now ready to appoint that firm as PSDP. Refer to Appointment of Consultants for how to complete the process and prepare a contract (Conditions of Engagement and Schedules) for signature by both parties.

6. Appointment of Consultant(s)

6.1 Letters of Regret to Unsuccessful Candidates

When the apparently successful tender has been selected following receipt of tenders, and before the School Authority (Contracting Authority) make an appointment you must send letters of regret to the unsuccessful tenderers informing them that they have not been successful and stating the characteristics and relative advantages of the successful tender, using the Template Letter to Apparently Unsuccessful Candidates at **Appendix H** herein. Letters to unsuccessful tenderers can be issued at the same time as the Letter of Intent to the apparently successful tenderer.

You must allow a reasonable period of time (14 calendar days where issued digitally)) from the date of issue of the regret letters before you confirm the successful consultants' appointments. This period is obligatory to allow time for the unsuccessful candidates to query the reasons for their lack of success.

6.2 Letter of Acceptance to Successful candidate

To confirm the successful consultants' appointments, you should issue a Letter of Acceptance using the template letter at **Appendix I**. If the successful consultant is not also acting as PSDP you will have two Letters of Acceptance – one to the consultant and one to the firm acting as PSDP. The Letter of Acceptance should be issued along with the Conditions of Engagement as described in 6.3 to 6.5 below.

6.3 Conditions of Engagement

Once the letters of regret have issued and a reasonable period of time has elapsed, and the conditions in the Letter of Intent have been satisfied by the apparently successful tenderer, the School Authority (Contracting Authority) is ready to appoint the Consultant and/or PSDP. The Letter of Acceptance is the first action to achieve this; however, it is also necessary to execute a formal agreement with that consultant called the Standard Conditions of Engagement for Consultancy Services (Technical) which is available on the web at https://cwmf.gov.ie/en/pillars/pillar-2/The Standard Conditions of Engagement for Consultancy Services (Technical Services) sets out the general terms and conditions of contract and should be signed by both parties (see 6.5 below).

6.4 Schedule A and B

Schedule A and B to the Conditions of Engagement (which are attached to the Contract) set out the project specific requirements. The School Authority (Contracting Authority) must complete Schedule A and B before issuing the Conditions of Engagement to the Consultant for signature.

To help the School Authority (Contracting Authority) fill in Schedule A and B a guide to completing the Schedule is attached at **Appendix J**. The School Authority (Contracting Authority) should use it to help them complete the actual form. (A separate Word version of **Appendix J** and blank **Schedules A and B** are also available on the Department of Education and Youth website at https://www.gov.ie/en/department-of-education/publications/appointment-of-consultants/.

In general, any items not highlighted are not capable of change in the actual electronic form. Items in green, are guidance to you on what to do but do not form part of the schedule. Items in Yellow are the moving parts of the Schedule (both Parts A and B). In most instances they should not be changed unless the green guidance recommends it.

Schedule B is particularly important in that it sets out (amongst other things) the stage payment terms for the Consultant and the milestones to be achieved before fees can be invoiced. There are two versions of Schedule B in Appendix J, as follows:

(a) For projects funded under the Summer Works Scheme or Emergency Works Grant Scheme only

(b) For projects funded under the Additional Accommodation or Prefab Replacement Schemes only.

Projects at (a) tend to be of short duration and therefore require fewer fee stage payments. Projects at (b) are of longer duration and require a greater number of fee stage payments.

The Schedules **(both A and B)** should always be completed by the Contracting Authority and not the Consultant.

The Schedule must reflect and include the scope of work for which the consultant submitted his/her fee and any special arrangements (for example any additional services that the consultant is including for the lump-sum fee) made at that time.

Where the consultant to be appointed is also acting as PSDP (this will be the situation in almost all cases), the Contract Sum for inclusion under "TOTAL FEE" in Schedule B is the total of the consultant's tender sum plus the amount agreed for PSDP services.

It may be necessary to discuss some aspects of Schedules A and B with the consultant to be appointed before finalising all entries (e.g. Total Performance Period) and this is acceptable.

6.5 Contract Signings

Once the Schedule has been prepared two copies should be made and each one should be attached to a copy of the Conditions of Engagement to make two sets of contract documents. Both sets should be sent to the Consultant for signature together with a letter of acceptance. The Consultant should then return both sets to the school for signature and dating by the School Authority (Contracting Authority). One set of the signed contract documents is then returned to the Consultant, and the other is retained by the school.

A more convenient way to deal with contract signing is to invite the Consultant to attend the school where the signings can be completed by both parties at the same time and the signed and dated documents exchanged.

Once the consultant has signed and dated the contract, he/she can start work on the project.

6.6 Maintaining records

The importance of maintaining an efficient system for keeping records cannot be overstated. At any time throughout the project, the Department (and/or in the case of an accident the Health & Safety Authority) may wish to audit the records of the School Authority (Contracting Authority) to ensure that proper procedures are being adhered to and that vital information is being retained.

The School Authority (Contracting Authority) should set up their own filing system, one that recognises the different areas of a building project (e.g. Design Team appointments, Financial, submissions from the consultant, general correspondence, minutes of meetings, etc.) and ensure that all documentation is properly filed therein. Reliance should not be placed on the Consultant to store information in relation to the project.

Where the Building Control (Amendment) Regulations 2014 apply to the project there is a particular onus on the Building Owner to maintain records (See Appendix A). Key documents in this regard are the written undertakings, on statutory forms, to the Building Control Authority to appoint a competent Assigned Certifier and a competent Builder. You should seek the advice of your consultant in relation to other important documentation to be maintained as records.

Appendix A - Building Control (amendment) Regulations 2014 (S.I. 9)

Building Control (Amendment) Regulations 2014 (S.I. No. 9 of 2014)

General

The **Building Control (Amendment) Regulations 2014 (S.I. No. 9 of 2014)** ("BC(A)R") came into operation on 1 March 2014. The objective of BC(A)R is to strengthen the building control system and improve compliance with the Building Regulations through enhanced accountability for Building Owners, Designers, Builders and Certifiers.

BC(A)R applies to new buildings, extensions to buildings (other than certain extensions to dwellings not exceeding 40m² in floor area), and works requiring a Fire Safety Certificate, subject to the provisions of the Regulations. Compliance with BC(A)R is a legal requirement where the Regulations apply to a project.

Duties of the Building Owner

Under BC(A)R, the Building Owner has several statutory obligations, including:

a) Ensuring that a Fire Safety Certificate and Disability Access Certificate are obtained where required;
b) Signing a Commencement Notice (or a 7-Day Notice, where applicable) for submission to the appropriate Building Control Authority;
c) Signing and submitting notices assigning:
d) a competent and appropriately registered professional as **Assigned Certifier**, who will inspect the building works during construction and certify compliance on completion; and
e) a competent Builder to carry out the works in accordance with the plans, specifications and Building Regulations and to sign the Certificate of Compliance on Completion;
f) Ensuring that adequate resources and competent persons are available to design, construct, inspect and certify the building works;
g) Promptly appointing a replacement Assigned Certifier or Builder where either withdraws from the project and notifying the Building Control Authority accordingly;
h) Where there is a change of Building Owner before submission of the Certificate of Compliance on Completion, notifying the Building Control Authority of the change and confirming all appointments in place; and
i) Maintaining all required records.

For devolved projects, the **School Authority** (Contracting Authority) is generally regarded as the Building Owner for the purposes of the Building Control Regulations.

The role of **Assigned Certifier** is a key requirement under BC(A)R and the Building Owner must appoint a suitably qualified and competent person to perform this function on projects to which BC(A)R applies.

The Building Owner should seek advice from their appointed Consultant(s), including the Assigned Certifier, regarding the appointment of a competent Builder and the discharge of all other Building Owner obligations.

The Assigned Certifier

The Assigned Certifier is the person appointed by the Building Owner in accordance with BC(A)R. The Assigned Certifier undertakes to inspect, and co-ordinate the inspection activities of others during construction, and to certify the completed building or works. The role does not include responsibility for supervising the Builder. The Assigned Certifier may or may not be a member of the Design Team.

For projects to which BC(A)R applies, the appointed Consultant shall act as Assigned Certifier and the cost of providing this service shall be included within the tendered fee.

The Assigned Certifier's duties include:

a) Providing and signing the relevant statutory certificates, including the Undertaking by Assigned Certifier and the Certificate of Compliance on Completion;
b) Co-ordinating ancillary certification by members of the Design Team and other relevant parties;
c) Identifying all design professionals and specialists from whom certificates are required;
d) Identifying and obtaining all required certificates;
e) Co-ordinating and collating compliance certification for completion in conjunction with the Builder;
f) In consultation with the Design Team, planning and overseeing the implementation of the Inspection Plan during construction;
g) Preparing the Preliminary Inspection Plan and overseeing its implementation, and providing the completed Inspection Plan on project completion;
h) Upon termination or relinquishment of the appointment, making available to the Building Owner all certification and inspection reports prepared during the appointment;
i) Acting as the single point of contact with the Building Control Authority during construction;
j) Seeking advice from the Building Control Authority on compliance matters where disputes or differences of opinion arise; and
k) Maintaining records of inspections.

Consultants tendering for the Project shall be familiar with the requirements and implications of the Building Control (Amendment) Regulations 2014 and shall demonstrate the necessary competence and experience to undertake the role of Assigned Certifier where applicable.