

LEADER Query Template (Version 2 - July 2020)	
LAG/IP Name:	Waterford LEADER Partnership CLG
Project Name or Monthly Administration Return Detail:	Knockanore Farmhouse Cheese
LEADER IT System Project Number	31LDRWAT110525
Project and/or Claim Stage:	Final Claim
Was this issue identified in the course of an Article 48 check? If so, please include a copy of any related correspondence in the Query Details section below.	No. The issue was identified at Claim stage
Query Category (procurement, eligibility etc.):	Procurement
If an eligibility query, have the LEADER Operating Rules, Circulars and Q&As been checked on the subject? Please reference the relevant Operating Rules section/Circular/Q&A if a doubt exists on a particular point or item.	Yes
If a procurement query, please state Promoter Category (1 or 2). If Category 1 query, please include copy of advice from Office of Government Procurement in the Query Details section below.	Category 2 Even though Category 2, we sought OGP advice, which is as follows: Good afternoon Jimmy, Thank you for contacting the OGP.

	S.I. No. 284 of 2016 can be located on the OGP website here: <u>gov.ie - Statutory Instruments (www.gov.ie)</u> Regulation 42 section (8) refers to <i>Technical specifications</i>. This may assist you with your determination. It is the responsibility of the Contracting Authority to adhere to the Public Procurement Guidelines and Regulations. You may need to seek legal advice if your query does not fall under this Regulation 42. The OGP is not a legal entity and do not provide this guidance. If you need any further assistance from Support, please don't hesitate to get in touch. Kind regards, Anna Regulation 42, Section 8 states (8) Unless justified by the subject matter of the contract, technical specifications shall not, subject to paragraph (9), refer to— (a) a specific make or source, (b) a particular process which characterises the products or services provided by a specific economic operator, (c) trade marks, (d) patents, (e) types, or (f) a specific origin or production, with the effect of favouring or eliminating certain undertakings or certain products
Query Details	
The applicant accepted a bid for a APV FX Milk Pasteuriser, tender and specification attached.  Myers Pasteuriser 1.pdf The supplier, Myers was unable to supply the tendered item due to two factors. The first reason was that due to Covid 19 they were unable to obtain the parts for the reconditioned machine and secondly the project had a time limitation on it. The letter from the supplier, Myers details these facts. It also details that the replacement machine was of the exact same specification as the	

reconditioned machine and has been delivered at the tendered price. The only difference is the brand name, Alfa Laval.

A significant benefit, as detailed in the supplier's letter, was that the replacement machine was brand new and that it was been delivered at a significant discount so that they could honour the contract.



email lara
costello.pdf

As one can see from the none binding OGP information above, the change of brand is not an issue, as when tendering, the brand of the machine cannot be mentioned.

The query is very straight forward:

- From the OGP advice, the supplier's replacement offer does not necessitate a retendering process. Are the Dept. in agreement with this view?
- The applicant did not notify the IP/LAG prior to accepting the replacement machine.



Myers Alfa Laval.pdf

In this instance, if the Dept. agrees with our position above, would the Dept. permit a retrospective permission in this instance>?

LAG/IP/Article 48 Body Official's Details:	
Name:	
Job Title:	
Phone Number(s):	
Email address:	

DRCD Reply:

Based on the information provided, in particular, that the replacement new Alfa-Laval M6 model milk pasteurising unit is, as confirmed in the attached e-mail of the 27th May from Laura Costello of Myers Food Machinery, the same specification as the original procured, APV FX TM milk pasteuriser, then, the Alfa-Laval M6 model may be considered for claim purposes.

Prior to claiming this replacement item, this matter must be brought to the LAG for their consideration and approval.

For audit trail purposes, a copy of this reply must be uploaded to the relevant LEADER IT system claim folder, and also placed on the hard file.

DRCD Official's Details	
Name:	Fergal Shannon
Phone Number:	01 7736932
Reply Date:	02.06.2022