

Appendix 2

Section 15.4 Unclean Version, showing text changes in red text and strikethrough

15.4 National Procurement Guidelines – Category 1

The National Procurement Guidelines apply where the award of total public funding (from LEADER and public matching funds) is more than 50% of the project costs. These guidelines are also applicable to LAGs/Implementing Partners, regardless of the levels of support from LEADER. An outline of the threshold requirements is set out in the table below:

National Procurement Thresholds		
Contract Type	Amount (excl. VAT)	Procedure
Supplies & Services	Less than €5,000	Seek verbal quotations from one or more interested and competent suppliers/service providers - these can be sought verbally but responses must be obtained in writing. (Best Practice – Seek a minimum of 3 written quotes; a record of verbal requests must be placed on file).
	€5,000 - €25,000 €50,000	Seek written quotations from a minimum of 3 suppliers on the basis of responses to written specifications.
	€25,000 €50,000 - EU Threshold* (currently €215,000)	Publish Contract Notice on eTenders www.etenders.gov.ie – Open Procedure.
Works Related Services	Less than €50,000	Seek written quotations from at least 5 firms on the basis of responses to written specifications, or follow the eTenders process – Open Procedure
	€50,000* – EU Threshold (currently €215,000)	Publish Contract Notice on eTenders www.etenders.gov.ie – Open Procedure*
Works	Less than €50,000 €200,000	Seek written quotations from at least 5 firms on the basis of responses to written specifications, or follow the eTenders process – Open Procedure
	€200,000 – €250,000	Publish Contract Notice on eTenders www.etenders.gov.ie – Open Procedure

	€250,000 €200,000 - EU Threshold* (currently €5,382,000)	Publish Contract Notice on eTenders www.etenders.gov.ie – Open or Restricted Procedure**
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*Where a project exceeds the EU threshold, the LAG must agree the appropriate procurement requirements with the Department as per Section 15.3.

**** Open Procedure** - In an open procedure, anyone may submit a full tender. This procedure is used most frequently.

Restricted Procedure - Anyone may ask to participate in a restricted procedure, but only those who are pre-selected may submit tenders. It is a 2-stage process, firstly, seek EOI to shortlist candidates on a qualitative assessment and then invite the specified number (typically 5) to tender, e.g. for conservation works to buildings - need to be able to select competent contractors.

Key Issues

Project promoters are advised, where necessary, to obtain legal or specialist advice and to pay particular attention to the following tendering requirements:

- a) Projects involving construction works must adhere to the requirements of the Capital Works Management Framework (CWMF), which is published under the Construction Procurement Reform website. The CWMF is a suite of template tender and contract documents for the procurement of public works and works-related service contracts.
- b) Project promoters should consider the nature, scale and complexity of the particular project and consult with the guidance material published under the CWMF before determining which procurement and contracting strategy to follow.
- c) Project promoters are advised to use the following suite of documents as being most suited to LEADER funded works projects;
 - Works Declaration LEADER (WDL)
 - Tender & Schedule for Works FTS6
 - Instruction to Tenderers (ITT W4 or ITT W5)
 - Short Public Works Contract (PW-CF6)

It should also be noted that the witness signatory to these documents must **not** be the project promoter or a person acting on the project promoter's behalf.

Where the procurement requirement is to seek quotations from written specifications for works projects, there is no requirement to use the **ITT or WDL template documents** ~~CWMF suite of template tendering and contract documents~~ referred to under *Key issues - Sections (c)*. These ~~CMWF~~ documents are only applicable to works projects, which are advertised on eTenders. **PW-CF6 and FTS 6 should continue to be used since it is good practice to set out up front the payment terms, insurance requirements and measures to adjust the price and time for completion for any construction project.** ~~It should also be noted that the witness signatory~~

~~to these documents must not be the project promoter or a person acting on the project promoter's behalf.~~

- d) Project promoters may use alternative documents from the **suite of contracts published under the CWMF**, however the Short Public Works Contract (PW-CF6) should be suitable for the majority of LEADER works projects given the nature of these investments. Where using the PW-CF6, the winning tender must be selected solely on the basis of the lowest price tendered. For more technically complex works projects, and where the project promoter wishes to select on the basis of MEAT, the project promoters are advised to use PW-CF5 (Minor works form of contract).
- e) For Works above ~~€50,000~~, **€200,000**, it is recommended, but not mandatory, that project promoters use the prequalification document circulated by the Department (Works Declaration LEADER (WDL)).
- f) Project promoters should be aware of the National Health and Safety requirements that apply for Works – these are referred to in the pre-qualification document (WDL).
- g) For Works-Related Services, the winning tender must be identified on the basis of Most Economically Advantageous Tender (MEAT).
- h) For Supplies and Services Contracts, project promoters may award contracts on the basis of either lowest price tendered or MEAT.
- i) The correct Common Procurement Vocabulary (CPV) code must be assigned.
- j) A minimum of 21 calendar days must be allowed for responses following the publication date of the advertising notice.
- k) Email responses to requests for quotations are acceptable where accompanied by clearly identifiable date and source information.
- l) Where a tender amount is considered to be abnormally low in relation to the pre-tender estimate or with respect to the extent of works, services or supply required, written evidence should be sought from the tendering contractors to demonstrate that the price is sustainable.
- m) Post-tender negotiations are not permitted i.e. any dialogue that could be construed as "post tender negotiation" on price or that might result in significant changes to the published tender request.
- n) For tenders obtained through eTenders, Framework Agreements and Newspaper Advertisements, successful and unsuccessful tenderer(s) must be notified in writing of the result of the tender process; these notification letters must be placed on file.

It is also recommended that, where feasible, all other unsuccessful suppliers/service providers & contractors who submit tenders/quotations are notified in writing of the outcome of the competition.

The purpose of successful and unsuccessful tender letters is to notify the participants of the outcome of the competition and, therefore, there should be no unnecessary delay in issuing them.

The letters should **not** be withheld until a LEADER contract has been awarded and signed. LEADER contracts may take weeks/months to reach final approval stage, therefore It would be unfair and unreasonable to withhold the result of a tender competition under these circumstances. For LEADER projects, the letter to the successful tenderer would normally advise that any commitment to a contract will only exist if the project promoter obtains approval for a LEADER grant. It should also be noted that under National Procurement Guidelines, both the successful and unsuccessful letters should be issued at the same time.

The above requirements outline the procurement procedures to be followed; however in addition, the LAG must satisfy itself in relation to the reasonableness of costs submitted for each project. In this regard, the following must be adhered to;

Reasonableness of Costs

All projects should be assessed for reasonableness of costs. In the main, a comparison of the tenders/quotations received provides assurances as to the level of cost incurred. However, where the procurement process results in less than 3 responses/tenders being obtained, either through advertising on eTenders or seeking direct quotations, the Evaluation Committee and the LAG must demonstrate the additional steps taken to ensure that the project costs are reasonable. As an example, the LAG/Evaluation Committee could consider the costs based on its existing knowledge and a comparison of the costs of similar projects/activity in the same geographical region.

In addition, for all direct invitation procedures where less than 3 quotations are obtained, it is advisable to review the list of firms/suppliers from whom quotations were sought. This provides extra assurance that the project promoter had legitimate grounds for expecting a response e.g. for construction works, check that the project promoter has contacted contractors that operate in the geographic area concerned.

Administration and Animation costs of **LAGs and their Implementing Partners and Animating Partners** to satisfy Reasonableness of Cost requirements, for any purchases of supplies and services between €1,000 and €5,000 they are required to seek a minimum of 3 written quotes. This is to assist the Department to verify the Reasonableness of Cost of the item(s) as per Section 16.1.