

Wicklow County Council

Procurement Policy & Procedures



## Document Control

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**Revision Control**

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## Introduction

Public Procurement is the acquisition, whether under formal contract or not, of supplies, services and works by Public Bodies. It ranges from the purchase of routine supplies or services to formal tendering and contracts for large infrastructural projects by a wide and diverse range of contracting authorities.

Across the European Union, Public Procurement represents a significant proportion of total procurement. Therefore, Public Procurement is a useful tool for achieving key policy objectives and when used strategically, it can help bolster our economies, create a more inclusive society, aid the achievement of Climate Action Targets and make the Public Sector more efficient.

There is an onus on each Public Body which is also a Contracting Authority (i.e. a Public Body which awards contracts) to ensure that officials engaged in procurement are fully familiar with the relevant EU and National Public Procurement Rules, and are compliant with these when procuring supplies, services or works on the State’s behalf. The professionalization of procurement is a key feature of the government’s Public Service Reform Programme, with its importance recognised at EU level.

As a Public Body which is also a Contracting Authority, Wicklow County Council (WCC) is obliged to ensure public funds are properly accounted for, used for their intended purpose, obtain value for money and act in the public interest whenever they are being spent or invested, in ways which are consistent with Legal, Regulatory and Government Policy. Therefore WCC is accountable for all the procurement it conducts and WCC procurements are governed by EU Directives, National Legislation, circulars and other legal requirements.

Public Procurement is an Executive Function of WCC and the responsibility for compliance with related EU Directives, National legislation/policies/guidelines/circulars and internal policies/procedures is vested in the Director of Finance and Directors of Services, however each WCC Employee must be aware of WCC’s Procurement Policy & Procedures and ensure these are complied with in order to deliver best value for money and achieve WCC’s Policy Objectives.

WCC Employees must also be aware of their obligation to meet the requirements of the Public Spending Code and reporting requirements at each stage of a Capital Project. [Circular 24/2023 Update of the Infrastructure Guidelines Capital Spending Requirements](https://www.gov.ie/pdf/?file=https://assets.gov.ie/279768/b9764869-58d6-4e5d-a691-b0425e49f05b.pdf#page=null) relates.

## Objective

The objective of this Procurement Policy & Procedures document is to serve as a guide to all WCC Employees who procure. It consists of three sections, namely:

1. Wicklow County Council Procurement Policy
2. Public Procurement Rules
3. Public Procurement Process

It defines the policies, procedures and practices that should be followed by all those involved in the process of purchasing supplies, services or works within/for/on behalf of WCC. While each purchase may be different, this document aims to provide an overview and reminder to those undertaking the purchase or procurement process on behalf of WCC.

In addition to WCC’s Procurement Policy & Procedures, all WCC Employees are expected to familiarise themselves with relevant directives, legislation, policies, procedures, guidelines, circulars and information notes in respect of Public Procurement, which are available from:

* <https://www.etenders.gov.ie/epps/home.do>
* <https://www.gov.ie/en/organisation/office-of-government-procurement/>
* <https://constructionprocurement.gov.ie/capital-works-management-framework/>

# Section 1 – Wicklow County Council Procurement Policy

## Corporate Procurement Plan

The Procurement Function of WCC aims to be a value added function to the organisation that is strategically aligned to the business needs of WCC. WCC’s 3-year Corporate Procurement Plan (2022-2024) is published on [Wicklow County Council’s website](https://www.wicklow.ie/Living/Your-Council/Finance/Procurement/Introduction-to-Procurement) and includes a number of strategic, organisational and operational objectives, which are necessary to achieve good procurement practice, the realisation of efficiencies and improved compliance with Public Procurement Directives, Legislation, Policies, Procedures, Guidelines and Circulars. The plan is reviewed annually and updated on a continuous basis.

The four main objectives of WCC’s Corporate Procurement Plan are:

1. To ensure WCC **complies** with Public Procurement Directives, Legislation, Policies, Procedures, Guidelines and Circulars.
2. To support **service delivery** by WCC and to fulfill the strategic objectives in WCC’s Corporate Plan.
3. To achieve **greater value for money** for WCC by:
   1. Ensuring that purchasing is carried out in a coordinated and strategic manner.
   2. Reviewing and, where possible, streamlining existing procurement processes.
   3. Identifying opportunities for savings, for example by utilising national and regional aggregated contracts or other means.
4. To facilitate **economic, social and environmental objectives** through procurement, for example by:
   1. Engaging with businesses and suppliers.
   2. Identifying opportunities for green and/or social procurement.

## 1.2 Procurement Policy

WCC’s Procurement Policy & Procedures Manual was approved by WCC’s Senior Management Team on 28/05/2024. It sets out the policy for the procurement of supplies, services and works by WCC. This document gives an overview of the governing principles of Public Procurement and the regulatory framework WCC must operate within. WCC’s Procurement Policy applies to all WCC Employees, and contractors and consultants working on behalf of WCC.

Procurement in WCC is a decentralised function and as such each Director or Head of Function shall ensure that WCC Employees within their Directorate/Function who are involved with, or engaged in, the procurement process, are familiar with Public Procurement Policies, Procedures, Rules and Regulations including, (but not limited to), the contents of this document, EU Directives, National Public Procurement Legislation, Guidelines and Government Circulars and Information Notes.

## 1.3 Contracting Authority

Responsibility for compliance with Public Procurement related EU Directives, National Legislation, Guidelines, Circulars and Internal Policies and Procedures rests with all WCC Employees.

The approval levels and associated staff grade and authorisation thresholds to be followed under the Procurement Policy of Wicklow County Council are provided in [Appendix 1](#_Appendix_1_–) of this document. Also provided are the requirements and procedures to be followed for the procurement of supplies, services and works contracts. All WCC Employees are required to obtain appropriate approval and ensure that the requirements and procedures are followed prior to making any formal or informal commitments to suppliers and external markets.

When approving the acceptance of quotations or tenders for the purchase of supplies, services or works, WCC Employees should be satisfied that contracts and/or orders have not been sub-divided or fragmented in order to avoid the application of Public Procurement Rules (see [Section 2](#_Section_2_–)).

WCC Employees are required to ensure an appropriate segregation of duties when requisitioning and approving Purchase Orders on WCC’s Financial System.

## 1.4 Procurement Ethics

All WCC Employees involved in procurement activity act as agents of WCC and are bound to act in accordance with the Local Government Act 2001, (as amended and reformed) and the Code of Conduct for Employees.

Personal purchases are not permitted through WCC’s purchasing system under any circumstances.

WCC Employees must disclose to their Director any beneficial interest that they or a connected person has in relation to procurement decisions conducted by the employee on behalf of WCC.

Members of tender evaluation teams are required to sign a ‘Declaration of Confidentiality and Conflict of Interest’ prior to the tender evaluation processes commencing. See [Appendix 3](#_Appendix_3_-).

## 1.5 Collaborative Procurement

WCC will, where possible, coordinate the procurement requirements across the organisation in order to achieve value for money. WCC will comply with National or Sector Led Frameworks where possible and where value for money and other non-financial cost savings can be demonstrated. WCC Staff will advise the Procurement Unit of any collaborative arrangements being entered into; including, but not limited to, contracts/framework agreements/Dynamic Purchasing Systems (DPS) provided by the [Office of Government Procurement (OGP)](https://www.gov.ie/en/organisation/office-of-government-procurement/?referrer=/), [SupplyGov](https://www.supplygov.ie/), other Local Authorities/Public Bodies etc.

When a contract or framework has been awarded on an organisation wide basis, all Directorates shall place orders for such supplies, services or works with that supplier only. Where exceptional circumstances preclude the use of the existing contract or framework, orders placed with a supplier other than the designated supplier must have an explanation for this attached to the related requisition(s) in Agresso. This explanation must include the specific, relevant justifications for this and be in accordance with the relevant purchase order/contract approval limits – see [Appendix 1](#_Appendix_1_–).

When a Framework Agreement/DPS is being established by one Contracting Authority on behalf of itself and another/other Contracting Authorities, the scope and range of the Framework/DPS must be made clear to market operators. Therefore, when WCC wishes to avail of a Framework Agreement/DPS established by another Contracting Authority/other Contracting Authorities prior to doing so it must be confirmed that WCC is formally and specifically named in the Framework Agreement/DPS as a participant who can avail of it, or an applicable umbrella term such as ‘other Local Authorities in the Republic of Ireland’ is used in the Framework Agreement/DPS when referring to the organisations which can avail of it. Also, the terms and conditions governing mini competitions/contract award and the Framework Agreement/DPS scope, overall value and procedures for contract management must be recorded, stored and understood by the relevant WCC Staff.

When availing of a Framework Agreement/DPS established by another Contracting Authority/other Contracting Authorities WCC’s associated Chief Executive/Chief Executive (delegated) Order must state:

* WCC is specifically named in the Framework Agreement/DPS as a participant who can avail of it or an applicable umbrella term such as ‘other Local Authorities in the Republic of Ireland’ is used in the Framework Agreement/DPS with reference to which organisations can avail of it.
* The eTenders, and if applicable, OJEU, competition reference number.
* The title of the Call for Tender as it appears on eTenders/the OJEU.
* Names of all the winning suppliers on the Framework Agreement/DPS (at time of award).
* The maximum ceiling value of the Framework Agreement/DPS (ex-VAT)
* The start and expiry dates of the Framework Agreement/DPS.
* Details of any options to extend the Framework Agreement/DPS.
* That the responsibility for tracking WCC spend, throughout the lifetime of the Framework Agreement/DPS, has and will continue to be assigned to a particular WCC Staff Member.

## 1.6 eTenders

As part of the Irish Government’s strategy for the use of eProcurement in the Irish Public Sector, [the eTenders procurement website](http://www.etenders.gov.ie) is designed to be a central repository for all Public Sector Contracting Authorities to advertise procurement opportunities and publish award information/notices. Therefore, when WCC are procuring supplies, services or works outside the national and sector frameworks, all notices for tender based competitions must be published on [the eTenders procurement website](http://www.etenders.gov.ie), and all tender based competitions must be ran and awarded on this site. All tenders received by WCC/by those acting on WCC’s behalf must be received via this site. No hard copy tender responses may be accepted by WCC/by those acting on WCC’s behalf other than in valid, prescribed and exceptional circumstances as outlined in the footnote under [Section 2.10](#_2.10_Choice_of).

There is no further obligation to supplement eTenders advertising with advertising in other media forms.

All WCC Employees who procure and require access to this platform will be assigned ‘Contracting Authority Procurement Coordinator Assistant’ (CAPCA) level access.

Consultants/others working on behalf of WCC requiring access to eTenders will be given ‘Contracting Authority Procurement Officer’ (CAPO) level access only. This access shall be for the minimum time required and the request for same **must** be made via email to the Procurement Unit by the relevant Director of Services.

[The eTenders procurement website](http://www.etenders.gov.ie) contains functionality which enables the publication of EU Threshold Notices to be sent to the Official Journal of the EU (OJEU).

**For publishing tenders via eTenders the procurement thresholds that apply are:**

|  |  |
| --- | --- |
| **System** | **Threshold** |
| [https://encrypted-tbn3.gstatic.com/images?q=tbn:ANd9GcQof3FgxLVYzb3_2F4PF1JLo9sZVJNGLVHQPZExUsMzRBpNJQHKyQ](https://www.google.ie/url?sa=i&rct=j&q=&esrc=s&frm=1&source=images&cd=&cad=rja&uact=8&ved=0CAcQjRxqFQoTCKuH7OHkqMcCFSIr2wodspwDog&url=https://en.wikipedia.org/wiki/Flag_of_Europe&ei=kvvNVZvqBtGy7Qaln5WoCg&bvm=bv.99804247,d.ZGU&psig=AFQjCNFec3yPVtapPAuvv52igB6F8U3F2g&ust=1439649045705407) EU Journal OJEU  (*January 2022*)  [www.ted.europa.eu](http://www.ted.europa.eu) | * Works > €5,538,000 * Supplies/Services > €221,000 * Light Touch Regime>€750,000 |
| rippled irish flag 720 National tenders  (below threshold)  [www.etenders.gov.ie](http://www.etenders.gov.ie) | * Works > €200,000 * Works Related Services >€50,000 * Supplies/Services > €50,000 |

It should be noted that the EU Thresholds above are effective from 01/01/2024 and are reviewed every 2 years. These are available [here](https://constructionprocurement.gov.ie/wp-content/uploads/EU-Revised-Thresholds-2024-and-2025.pdf).

Local Tender Reference Numbers should be included in the title or short description of every Call for Tender (CfT) – previously referred to as ‘Request for Tender (RfT)’ - published on eTenders/OJEU. In order to receive a Local Tender Reference Number, a request for same should be emailed to the Procurement Unit well in advance of intended CfT upload date i.e. at least 7 days before intended CfT upload date.

Procurement in WCC is a decentralised function therefore each Director shall ensure that all WCC Employees within their Directorate who are, may or will be engaged in/involved with, the procurement process receive training in using [the eTenders procurement website](http://www.etenders.gov.ie), as required.

As WCC Employees with access to [the eTenders procurement website](http://www.etenders.gov.ie) leave the employ of WCC, the HR Section of WCC shall inform the Procurement Unit of their finishing date to enable a deactivation of their eTenders account.

## 1.7 Contract Award Information

In accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null), WCC Employees are required to publish contract award information on [the eTenders procurement website](http://www.etenders.gov.ie), for all procurements over €25,000 (ex-VAT).

This is required for all contracts whether the competition was advertised on the eTenders Platform or not (for example, via an OGP Framework, SupplyGov, quotations). This includes contracts under a framework agreement/DPS. This is a separate requirement to other obligations that Public Bodies have to publish information on contracts derived from other government guidelines.

Section 2.3 of [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) relates.

The Contract Registrar, currently located in the Procurement Unit, must be informed, by email, of all contracts awarded which have a value of over €5,000 (ex-VAT).

## 1.8 Purchase Orders

A Procurement Reference Number should be sought from the Procurement Unit immediately upon award of a contract and well in advance of requiring a Requisition/Purchase Order Number i.e. at least 7 days before requiring a Requisition/Purchase Order Number. This should be sought by completing and emailing a completed Procurement Reference Request Form. The Procurement Reference Request Form is available on the shared, dedicated [Procurement Folder](file:///G:\Shared\Procurement).

All requisitions shall be raised in the Council’s Financial Management System, namely and currently Agresso MS7, prior to the order for supplies, services or works being placed with a supplier. Details of the Procurement Reference Number relating to the contract and/or quotes received must also be provided, by the inclusion of a completed MS7 Requisition Form and, where relevant, the inclusion of a completed MS7 Quotation Record Form. Details of the procurement process used must also be completed on RCT forms, where appropriate.

## 1.9 Chief Executive Approval

All Chief Executive Orders, including those delegated, relating to supplies, services or works procured by/on behalf of WCC, shall give a full and comprehensive description of the procurement process used.

**Direct Chief Executive Approval is REQUIRED for the following:**

* When WCC is entering into any formal contract/framework agreement/DPS, (including collaborative), above €1,000,000 (ex-VAT) for supplies, services or works.
* The engagement of outside consultants for the delivery of a plan, skills strategy, Local Economic and Community Plan (LECP) or policy document, **regardless of contract value**.

**Delegated Chief Executive Approval is REQUIRED for the following:**

* The engagement of Consultant Engineers, Consultant Architects, Consultant Ecologists, Consultant Surveyors etc. from outside bodies/agencies, subject to the purchase order/contract approval limits in the WCC’s Employee’s delegation. See [Appendix 1](#_Appendix_1_–).
* When entering into a formal contract for Supplies or Services between €50,000 and €1 million (ex-VAT), subject to the purchase order/contract approval limits in the WCC’s Employee’s delegation. See [Appendix 1](#_Appendix_1_–).
* When entering into a formal contract for Works between €200,000 000 and €1 million (ex-VAT), subject to the purchase order/contract approval limits in the WCC’s Employee’s delegation. See [Appendix 1](#_Appendix_1_–).
* When entering into a contract via a centralised purchasing arrangement or in collaboration with another Local Authority/Public Body, subject to the purchase order/contract approval limits in the WCC’s Employee’s delegation. See [Appendix 1](#_Appendix_1_–).
* When shorter tendering timescales are availed of in cases of genuine and extreme urgency i.e. not due to a lack of planning by WCC, subject to the purchase order/contract approval limits in the WCC’s Employee’s delegation. See [Appendix 1](#_Appendix_1_–).
* If/when procurement procedures/rules have been breached, **regardless of contract value**. A full explanation of the breach, the reason(s) for the breach and the procurement procedure used **must** be provided in the order.

## 1.10 Insurance

The required insurance coverage will vary from contract to contract. Any requirement for insurance cover must be signaled in the tender documentation. When procuring supplies/services/works the types and levels of insurance sought should be proportionate and reasonable in the context of the particular contract. Factors to be considered include, but are not limited to, the risks involved, value of the contract and subject matter of the contract.

The candidate must demonstrate that it can obtain the relevant insurance in accordance with the requirements set out. The evidence required to pass this criterion is confirmation from an insurance provider that the candidate has the current required level of insurance. Alternatively, if the candidate does not currently have cover at the levels stipulated they must produce evidence from the insurance provider confirming that the candidate can obtain cover at the stated levels if awarded the contract. Documentary evidence of the required insurance will only be required when a candidate is being assessed for shortlisting in a Restricted Procedure or has been identified as a successful tenderer in an Open Procedure procurement competition.

In carrying out competitions for the acquisition of routine low-to-medium-risk goods and services, contracting authorities should refer to Section 3.11 of [Circular 05/2023](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) for guidance in relation to setting insurance level requirements.

Those procuring Works and Works Related Services on behalf of WCC should consult Section 3.11 of [Circular 05/2023](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null), the [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) (in particular its guidance notes under [Pillar 4](https://constructionprocurement.gov.ie/guidance-notes/) such as, but not limited to, Guidance Notes 1.1.2, 1.6.3 and 2.3.1.3) and/or IPB Insurance regarding insurance related matters.

For bespoke and/or complex competitions, or if those procuring on behalf of WCC have concerns or questions as to how to determine the appropriate types and levels of insurance cover they should contact IPB Insurance for assistance.

## 1.11 Computer Hardware & Software, Mobile Phones, Car Kits & Digital Equipment

The specification and procurement of **all** computer Hardware & Software, Mobile Phones, Car Kits & Digital Equipment is subject to the endorsement of the Head of IT. Each section however, upon receiving sanction from IT, will raise its own Purchase Order.

## 1.12 Business Engagement

Those procuring on behalf of WCC must ensure their tender documentation and its contents are complete, relevant, proportionate to need and not needlessly complex.

The [Programme for Government](https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/) 2020 identified the role Public Procurement can play in improving access for Small and Medium Enterprises (SME) in competing for public contracts. The [Department of Public Expenditure and Reform Circular 05/2023 ‘Initiatives to assist SMEs in Public Procurement’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) is designed to further enable SMEs when competing for public contracts. It replaces the Department of Public Expenditure and Reform (DPER) Circular 10/2014. Those procuring on behalf of WCC should make themselves familiar with the contents of [Circular 05/2023](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) and, where possible, apply the suggested measure(s) it contains to improve access for SMEs in competing for public contracts.

These include:

* Carrying out preliminary market consultations, (which may include one-to-one consultations).
* Considering publishing a Request for Information (RFI).
* Subdividing national and EU level competitions into lots to support SME participation i.e. separating a contract into lots, thereby enabling smaller businesses to compete for individual lots. Article 46 of [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024) relates.
* Accepting consortium bids from suppliers that individually are not of sufficient scale to tender in their own right.
* Ensuring selection criteria set for tenderers are relevant and proportionate to the circumstances of a particular contract.

## 1.13 Health & Safety

[Section 8 of the Safety, Health and Welfare at Work Act 2005](https://www.irishstatutebook.ie/eli/2005/act/10/section/8/enacted/en/html#sec8) (and any amendments thereto or regulations made thereunder), places duties on employers regarding the provision of, amongst other matters, safe workplaces, safe plant and machinery, adequate instruction and training, and suitable personal protective equipment. Further requirements can be found in the regulations made under the Act and these should be consulted where relevant. All WCC Employees shall take cognisance of the relevant Health and Safety Requirements throughout the entire procurement process, including in the management and execution of resulting contracts.

## 1.14 Child Safety

All WCC Employees involved in Public Procurement exercised on behalf of WCC, (i.e. via quotations, tenders, availing of centralised and/or collaborative arrangements etc.), and the management and execution of resulting contracts shall take cognisance of [WCC’s Policy and Procedures for the Protection and Safeguarding of Children](file:///G:\Groups\Procurement\Policies%20&%20Procedures\Working%20Folder%20for%20new%20Proc%20Policy%2012.06.23\Child%20Protection%20Policy\1.%20WCC%20Policy%20and%20Procedures%20for%20the%20Protection%20and%20Safeguarding%20of%20Children%20December%202023.pdf), [WCC’s Child Safeguarding Statement](file:///G:\Groups\Procurement\Policies%20&%20Procedures\Working%20Folder%20for%20new%20Proc%20Policy%2012.06.23\Child%20Protection%20Policy\2.%20WCC%20Child%20Safeguarding%20Statement%20December%20%202023%20-%20Signed%20by%20CE.pdf) and relevant legislation.

## 1.15 Procurement and Accessibility

[Section 27 of the Disability Act 2005](https://www.irishstatutebook.ie/eli/2005/act/14/section/27/enacted/en/html#sec27) (and any amendments thereto or regulations made thereunder)

requires the head of a Public Body to ensure that services provided and goods supplied to the Public Body are accessible to people with disabilities, unless that would not be practicable, would be too expensive, or would cause an unreasonable delay. This will relate to a wide range of supplies and services, including equipment, materials, information technology etc.

It is the policy of WCC, to ensure that relevant accessibility requirements for people with disabilities are included in all stages of the procurement process, including in the management and execution of resulting contracts. Accessibility requirements should be clearly stated in quotations, Calls for Tender and contracts, where applicable. Staff seeking quotations, or preparing Calls for Tender may need to consult with external advisors and/or people with disabilities to identify these requirements. Where there are no accessibility requirements relevant to the supplies or services being procured, this should be recorded in a file note. Accessibility requirements should be given appropriate consideration and weighting during scoring and evaluation stages.

## 1.16 Public Sector Equality and Human Rights Duty

The Public Sector Equality and Human Rights Duty is a statutory obligation for Public Bodies in [Section 42 of the Irish Human Rights and Equality Commission Act 2014](https://www.irishstatutebook.ie/eli/2014/act/25/section/42/enacted/en/html#sec42). Section 42(1) requires Public Bodies, in the performance of their functions, to have regard for the need to eliminate discrimination, promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and protect the human rights of its members, staff and the persons to whom it provides services. As such, all staff involved in Public Procurement exercised on behalf of WCC, (quotations, tenders, availing of centralised and/or collaborative arrangements etc.), and the management and execution of resulting contracts shall take cognisance of WCC’s obligations under the Public Sector Equality and Human Rights Duty.

## 1.17 Freedom of Information and Data Protection

Wicklow County Council is committed to meeting all relevant data protection, privacy and security requirements, whether originating from legal, regulatory or contractual obligations and is committed to protecting the rights and privacy of individuals in accordance with the [Data Protection Act 2018](https://www.irishstatutebook.ie/eli/2018/act/7/enacted/en/html?q=data+protection+), the [Freedom of Information Act 2014](https://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/html?q=freedom+of+information), (and any amendments thereto or regulations made thereunder either), and the [General Data Protection Regulation (GDPR)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02016R0679-20160504).

Information may be requested on records relating to a tendering procedure under the [Freedom of Information Act 2014](https://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/html?q=freedom+of+information), (and any amendments thereto or regulations made thereunder). Certain records may be exempt from the provisions of this Act on such grounds as confidentiality or commercial sensitivity. Staff and/or consultants preparing, creating and/or publishing tenders on behalf of WCC should ensure their requests/calls for tender require those submitting tenders to indicate, with supporting reasons, any information included with their tenders which they wish to be regarded as confidential. WCC’s Freedom of Information Officer should be consulted where any issue arises.

Any Data Protection concerns/queries related to WCC’s procurement/contract management should be addressed to WCC’s Data Protection Officer.

## 1.18 Sustainable Public Procurement

The United Nations (UN) defines Sustainable Public Procurement (SPP) as a process whereby public organisations meet their needs for supplies, services, works and utilities in a way that achieves value for money on a whole life-cycle basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst significantly reducing negative impacts on the environment. Thus, both environmental and social considerations are included in the term ‘Sustainable Public Procurement’. The European Union also considers that SPP involves including both environmental and social criteria in purchasing decisions. The [Opportunities and Approaches for Sustainable Public Procurement](file:///G:\Shared\Procurement\Green%20Public%20Procurement\Opportunities%20and%20approaches%20for%20Sustainable%20Public%20Procurement%20.pdf) document provides further related information and is a useful reference.

Circular Public Procurement can be described as the process by which Public Bodies such as Local Authorities purchase Supplies, Services and Works that seek to contribute to closed energy and material loops within supply chains, whilst minimising, and in the best case avoiding, negative environmental impacts and waste creation across their whole life-cycle.

Green Public Procurement (GPP) is defined as a process whereby public authorities meet their needs for supplies, services, works and utilities by choosing solutions that have a reduced impact on the environment throughout their life-cycle as compared to alternative products/solutions. As part of the [Programme for Government](https://www.gov.ie/pdf/?file=https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf#page=null), Ireland has committed to implementing GPP in all procurements using public funds. The contents of [Circular 20/2019: ‘Promoting the use of Environmental and Social Considerations in Public Procurement’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/37044/c392250066e440a8bda16e8e58afd60e.pdf#page=null) and [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null) relate.

All WCC Employees making purchases on behalf of WCC, (via quotations, tenders, availing of centralised and/or collaborative arrangements etc.), and the management and execution of resulting contracts shall use GPP as tool to aid WCC in meeting its Climate Action Targets where and when possible and take cognisance of the following:

* WCC’s legal, regulatory and policy obligations regarding GPP.
* The [National Climate Action Plan](https://www.gov.ie/pdf/?file=https://assets.gov.ie/279555/25df7bb5-1488-4ba1-9711-e058d578371b.pdf#page=null)
* WCC’S Climate Action Plan 2024-2029.
* The [United Nations 12th Sustainable Development Goal](https://sdgs.un.org/goals/goal12), and its target [12.7](https://sdgs.un.org/goals/goal12#targets_and_indicators)
* [Circular 20/2019: ‘Promoting the use of Environmental and Social Considerations in Public Procurement’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/37044/c392250066e440a8bda16e8e58afd60e.pdf#page=null)
* [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null)
* [Opportunities and Approaches for Sustainable Public Procurement](file:///G:\Shared\Procurement\Green%20Public%20Procurement\Opportunities%20and%20approaches%20for%20Sustainable%20Public%20Procurement%20.pdf)
* That Cost Control and Carbon reporting templates, incorporating the International Cost Management Standards (ICMS3), must be used on all new capital works projects (commencing stage 1) from 1st January 2024. These can be found in [Standard Forms for Cost Planning & Cost Control](https://constructionprocurement.gov.ie/standard-forms-for-cost-planning-cost-control/) on the [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) website.

There are also opportunities for Public Bodies to deliver social aims when procuring. Examples of Social Considerations include, but are not limited to:

* Employment and training opportunities for disadvantaged groups.
* Disability Access.
* Promoting Social Inclusion and Social Enterprises.
* The Protection of the Environment and Combating Climate Change.

These can be achieved through the inclusion of Social Considerations as requirements throughout the procurement process, from business case and specification stages through to the selection, award and contract management stages. [Circular 20/2019: ‘Promoting the use of Environmental and Social Considerations in Public Procurement’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/37044/c392250066e440a8bda16e8e58afd60e.pdf#page=null) relates and EU and national Public Procurement Rules determine what and how such considerations can be successfully incorporated. All staff involved in Public Procurement exercised on behalf of WCC, (quotations, tenders, availing of centralised and/or collaborative arrangements etc.), and the management and execution of resulting contracts shall take cognisance of WCC’s related legal, regulatory and policy obligations.

Further information, resources and toolkits for WCC Staff regarding GPP and Social Considerations, and their implementation can be found in the GPP Internal Guidance Note for WCC Staff in the [Green Public Procurement Folder](file:///G:\Shared\Procurement\Green%20Public%20Procurement) on WCC’s Shared Drive. This folder also includes guidance documents which provide Core and Comprehensive GPP Criteria, which can be copied and used in competition documents, for specific areas, (see ‘GPP Principle 2a’ in [Section 1.19](#_1.19_Green_Public)) Also, by using the online [GPP Criteria Search Tool](https://gppcriteria.gov.ie/) users can find, select and download relevant green criteria to include in procurement documentation.

## 1.19 Green Public Procurement Implementation Mandate

The National Green Public Procurement Strategy and Action Plan, [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null), mandates all Public Bodies, and therefore WCC, to include Green Public Procurement (GPP) Criteria in all tender competitions which use public funds and are above applicable EU Procurement Thresholds. From 2025 this extends to all tender competitions above applicable National Procurement Thresholds.

Information relating to specific GPP Targets and Timescales relating to various supplies and services is provided in Chapter 7 and Appendix 2 of [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null). Staff/others procuring for/on behalf of WCC should make themselves aware of these.

A comply or explain approach to the GPP Implementation Mandate is taken, and each procurement competition’s compliance/reason(s) for non- compliance are recorded on eTenders by the completion of related eForms. Such information and related data is harvested by relevant bodies and made available in accordance with relevant legislation and the [Open Data Directive](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1024&from=EN).

**In order to adhere to the GPP Implementation Mandate the following principles shall be applied by staff/others procuring for/on behalf of WCC as part of the procurement process:**

* *GPP Principle 1: Consider environmental sustainability when assessing need.*

When WCC is considering procuring supplies, services or works, environmental sustainability must be an intrinsic part of the needs assessment process, and business case where appropriate, and prior to a decision to procure being taken. Reducing overall consumption of resources is the single most effective environmental action public bodies and individuals can take. Consideration should be given to:

* Avoiding unnecessary purchases.
* Re-thinking how the demand can be met in a way that requires fewer or better value goods to be purchased.
* Considering resource sharing, reuse or repair options.
* Building flexibility into contracts and frameworks so that the nature and volume of supply best reflects changing and future needs.
* *GPP Principle 2: Insert GPP Criteria in Published Tender Documentation.*

When WCC decides to procure supplies, services or works, GPP criteria, especially technical specifications, where possible, must be included in published tender documentation. The purpose of the GPP Criteria is to ensure that the supplies, services, or works being procured will have a reduced impact on the environment.

GPP Criteria can be included in the procurement process:

* When defining the subject matter of the competition.
* As technical specifications, which have an environmental dimension.
* In the Selection Criteria such as the technical or professional ability of the tenderer.
* In the Award Criteria such as GPP Qualitative Award Criteria.
* By requiring specific GPP Certifications or Standards.
* In the application of Life-Cycle Costing.
* In contract performance or management clauses.
* *GPP Principle 2a: When inserting GPP Criteria, use Irish GPP criteria for supplies, services or works, where available.*

All public bodies that are procuring supplies, services or works for which Irish GPP criteria is available must include GPP criteria from such guidance in published tender documentation, where appropriate and proportionate.

Currently Irish GPP criteria are available for the following sectors and can be found [here](https://gppcriteria.gov.ie/).

* Road Transport Vehicles and Services.
* ICT Product and Services.
* Food and Catering Services.
* Cleaning Products and Services.
* Office Building Design, Construction and Management.
* Lighting.
* Heating Equipment.
* Energy Related products.
* Paper Products and Printing Services.
* Textiles.

As new or updated Irish GPP Guidance and Criteria become available, such Guidance and Criteria must be used.

* *GPP Principle 2b: Use GPP criteria from other sources where no Irish GPP sectoral GPP criteria is available.*

Where Irish GPP criteria are not available, use GPP criteria from other sources (for example, EU GPP Criteria), best practices available from other countries, or using existing guidance to incorporate sustainability into specific procurement projects, (see section 4.6 of [Opportunities and Approaches for Sustainable Public Procurement](file:///G:\Shared\Procurement\Green%20Public%20Procurement\Opportunities%20and%20approaches%20for%20Sustainable%20Public%20Procurement%20.pdf) ). In addition such criteria can augment Irish GPP Criteria that is already being used.

* *GPP Principle 2c: Use ‘Minimum Sustainability/ Environmental Criteria’ where no Irish, EU GPP criteria or other guidance for the supplies, services or works being procured are available.*

There are scenarios where GPP criteria may not be available, fully developed, have yet to be incorporated into OGP/Central Purchasing Bodies arrangements, or the approach described under GPP Principle 2b may not be considered possible for a specific procurement project. In such cases those procuring for/on behalf of WCC should still endeavor to include criteria that will reduce the impact on the environment.

To facilitate this approach, suggested Minimum Sustainability/ Environmental Criteria are provided in Appendix 3 of [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null). This approach, however, should only be used as a last resort. Refer also to [the Irish GPP Guidance](https://gppcriteria.gov.ie/).

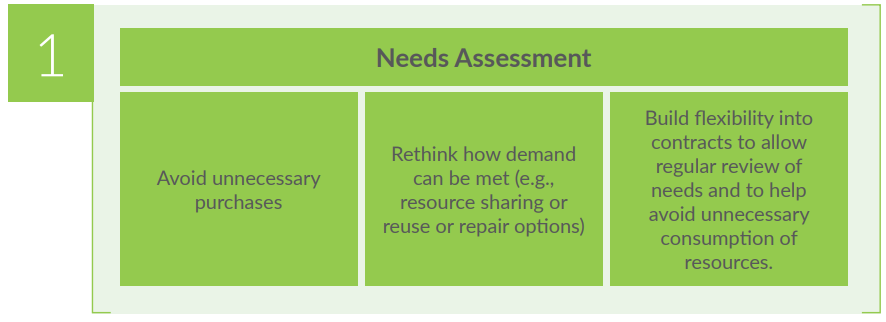
* *GPP Principle 2d: Consideration should be given to using an innovative procurement procedure or the innovation partnership to find supplies, services, or works to address a specific environmental need that cannot be otherwise met.*

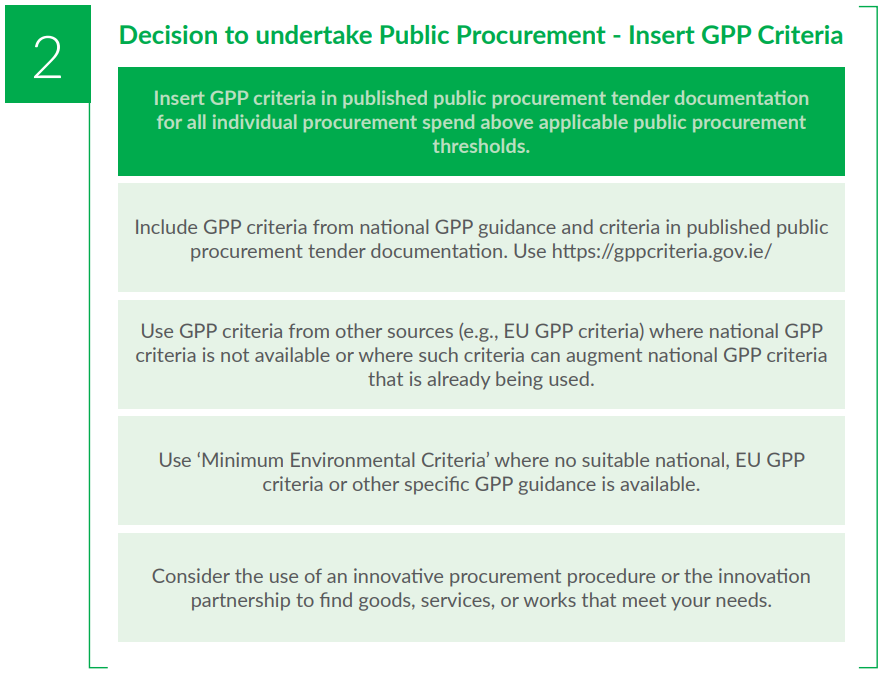
The innovation partnership is a procedure that allows for the combination of research, innovation and procurement, in circumstances where the market cannot already provide a solution. There are three key phases to this procedure – the tendering phase, the collaborative development phase, and the commercial phase for the delivery of the final supplies, services, or works. The innovation partnership has been used by contracting authorities across Europe to find green, social, and digital solutions. [A Quick Guide](https://ec.europa.eu/docsroom/documents/47178) on the procedure was developed by practitioners for the European Commission, and [more detailed guidance](https://commission.europa.eu/funding-tenders/tools-public-buyers/innovation-procurement_en) is also available.

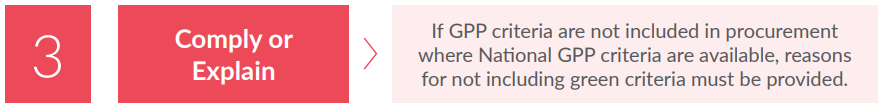
* *GPP Principle 3: Comply or Explain.*

Having regard to the actions set out in [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null) those procuring for/on behalf of WCC who do not include GPP Criteria in their published tender documentation in accordance with Principle 2a, must provide justified reasons in an annual report for not including such criteria.

**The Green Public Procurement Implementation Mandate:**







## 1.20 Life-Cycle Costing

The real value of a contract can only be fully determined when the [Life-Cycle Costing](https://green-business.ec.europa.eu/green-public-procurement/life-cycle-costing_en#:~:text=Life%2Dcycle%20costing%20(LCC)%20means%20considering%20all%20the%20costs,water%20use%2C%20spares%2C%20and%20maintenance) of the procurement is taken into consideration.

Life-Cycle Costing (LCC) considers all the costs that will be incurred during the lifetime of the supplies, services or works. These should include the purchase price and all associated costs, such as delivery, installation, insurance, the operating costs including energy and water use, provision of spares and maintenance, and all end-of-life costs, such as decommissioning or disposal and/or residual value.

LCC may also include the cost of externalities, such as greenhouse gas emissions, under specific conditions as set out in Article 68 of [Directive 2014/24/EU on Public Procurement](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024).

The [2016 Procurement Regulations](https://www.gov.ie/pdf/?file=https://assets.gov.ie/136772/afee49cf-44e2-4f15-ae28-df78228c71dd.pdf#page=null) provide that a contract shall be awarded on the basis of the most economically advantageous tender (MEAT)/best price quality ratio (BPQR). Where the award of contract is based on MEAT/BPQR, the buyer must consider the whole life-cycle costs and not just the acquisition costs. Where appropriate, buyers should seek whole LCC Solutions in their tender documents.

The EU Commission LCC Tools for various products are available [HERE](https://ec.europa.eu/environment/gpp/lcc.htm#:~:text=Life%2Dcycle%20costing%20(LCC)%20means%20considering%20all%20the%20costs,water%20use%2C%20spares%2C%20and%20maintenance).

Section 3.10 of [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) relates.

## 1.21 Energy Management

WCC aims to manage and reduce the amount of energy it consumes for a variety of reasons including reducing costs and the impact of rising costs, meeting its Climate Action Targets, meeting legislative and/or self-imposed carbon targets, reducing reliance on Fossil Fuels, reducing Greenhouse Gas Emissions ([scope 1, 2 and 3](https://normative.io/insight/scope-1-2-3-emissions-explained/?gad_source=1&gclid=EAIaIQobChMIoL6opOOOgwMVRKRaBR1Uxg33EAAYASAAEgLu7fD_BwE)) and enhancing WCC’s reputation as a socially responsible organization.

When procuring contracts for the provision of energy, such as, but not limited to, metered and unmetered electricity WCC Staff will firstly consider related OGP Frameworks and utilise GPP principles, processes and resources. WCC’s Energy Unit will procure all contracts for the provision of energy.

When procuring supplies (including but not limited to plant, fleet and equipment), services and works, WCC Staff will be cognisant of energy consumption and performance, and apply Eco Design Requirements, GPP principles and Life-Cycle Cost Analysis where and when applicable.

When procuring for and/or on behalf of WCC, the ‘energy efficiency first’ fundamental principle of EU Energy Policy established in the [EU Directive 2023/179 on Energy Efficiency](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2023_231_R_0001&qid=1695186598766), WCC’s Energy Policy, Energy Action Plan, and Energy Management System\* should be adhered to. Related resources such as [GPP Guidance from the OGP](https://www.gov.ie/en/publication/972e3-ogps-go-green-campaign/) including the [GPP Criteria Search Tool](https://gppcriteria.gov.ie/?referrer=http://www.gov.ie/en/publication/40fba-gpp-criteria-search/) , the [EPA’S GPP Guidance for the Public Sector](https://www.epa.ie/publications/circular-economy/resources/GPP-Guidance-for-the-Irish-Public-Sector.pdf) (and accompanying [energy-related products criteria](https://www.epa.ie/publications/circular-economy/resources/EPA_GPP_Criteria_Energy_2022_03.pdf)) and the GPP Internal Guidance Note for WCC Staff in the [Green Public Procurement Folder](file:///G:\Shared\Procurement\Green%20Public%20Procurement) on WCC’s Shared Drive should be availed of.

*\* WCC’s Energy Policy, Energy Action Plan, and Energy Management System being created at the time of this documents approval.*

# Section 2 – Public Procurement Rules

## 2.1 Public Procurement Principles

The Treaty of Rome on the Functioning of EU applies to all Public Procurement activity **regardless** of value. The procurement of supplies, services or works in the Public Sector must comply with the Treaty’s fundamental procurement principles:

* **Transparency**: all procurement activities are open and transparent with necessary information provided to all. Procurement intentions and decisions should be advertised publically.
* **Equal treatment and non-discrimination**: the same rules apply to all with equal rights of access. Decisions are to be based on objectivity and fairness.
* **Proportionality**: all measures used must be both necessary and appropriate in relation to the objective (i.e. the award of the contract). No excessive or disproportionate conditions, criteria or rules are to be applied
* **Mutual recognition**: equal validity is to be given to qualifications/standards applicable in other Member States.

## 2.2 Regulatory Environment

Wicklow County Council’s Procurement Policies and Procedures are governed by:

* [EU Directives](https://www.gov.ie/en/collection/2de26-directives/)
* National Legislation
* Public Procurement Policy / Guidelines / Circulars
* Case law at European and National level

**These are collectively known and referred to as “Public Procurement Rules”.**

EU Directives, National Legislation, Regulations and Policies governing Public Sector Procurement in Ireland can be accessed [here](https://www.gov.ie/en/collection/9f0fb-procurement-legislation/) and via the national procurement websites, such as:

* [The Office of Government Procurement](https://www.gov.ie/en/organisation/office-of-government-procurement/?referrer=/)
* [gov.ie - Procurement Policy - Goods and Services (www.gov.ie)](https://www.gov.ie/en/collection/8906a-procurement-policy-goods-and-services/)
* [Regulations | Capital Works Management Framework (constructionprocurement.gov.ie)](https://constructionprocurement.gov.ie/regulations/)

EU and National Regulatory Bodies monitor and report on the procurement activities of Public Bodies.

## 2.3 EU Directives

Prescribed procedures governing public procurement are set out principally in EU Directives. These can be found [here](https://www.gov.ie/en/collection/2de26-directives/). Below are those which are currently to the forefront of Public Procurement:

* [**Directive 2014/24/EU**](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024) covering the award of supplies, services and works contracts implemented in Ireland by National Regulations entitled **S.I. No. 284 of 2016 European Union (Award of Public Authority Contracts) Regulations 2016**.
* [**Directive 2014/25/EU**](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0025) covering the award of supplies, services and works contracts by entities operating in water, energy, transport and postal services sectors (**Utilities**) implemented in Ireland by National Regulations entitled **S.I. No. 286 of 2016 European Union (Award of Contracts by Utility Undertakings) Regulations 2016**
* [**Directive 2014/23/EU**](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0023&rid=2#:~:text=This%20Directive%20recognises%20and%20reaffirms,performing%20works%20and%20providing%20services.) on the award of Concession Contracts implemented in Ireland by National Regulations **entitled S.I. No. 203 of 2017 (the “2017 Concessions Regulations”)**
* [**Directive 2007/66/EC**](https://eur-lex.europa.eu/eli/dir/2007/66/oj) outlining the avenues open to unsuccessful tenderers to challenge the decision made by a Contracting Authority (the **“Remedies Directive”)** implemented in Ireland by National Regulations entitled **European Communities (Public Authorities’ Contracts) (Review Procedures) Regulations 2010 (S.I. No. 130 of 2010)**

All of the above mentioned directives and their relative regulations apply only to contracts that are, or are expected to be, above the relevant EU advertising thresholds. Public Procurement below the relevant EU threshold is subject to national procurement rules that are set out in national guidelines and circulars.

## 2.4 Circulars

Below are some of the currently prominent Government Circulars which apply to Public Procurement by Local Authorities. Further information on these, and others, can be found on:

[WCC’s Shared Folder of Procurement Related Circulars](file:///G:\Shared\Procurement\Circulars%20&%20Policy) , and on:

<https://www.gov.ie/en/collection/a3f37-circulars/>

<https://constructionprocurement.gov.ie/circulars/>

1. **Circular 24/2023 :**

[Circular 24/2023 Update of the Infrastructure Guidelines Capital Spending Requirements](https://www.gov.ie/pdf/?file=https://assets.gov.ie/279768/b9764869-58d6-4e5d-a691-b0425e49f05b.pdf#page=null)

On 21st December 2023 the National Investment Office (NIO) in the Department of Public Expenditure, NDP Delivery and Reform published [Circular 24/2023 Update of the Infrastructure Guidelines Capital Spending Requirements](https://www.gov.ie/pdf/?file=https://assets.gov.ie/279768/b9764869-58d6-4e5d-a691-b0425e49f05b.pdf#page=null) which replaces the Public Spending Code: A Guide to Evaluating, Planning and Managing Public Investment, December 2019. Staff must make themselves aware of their role and responsibility, the approval stages and reporting requirements for Capital Schemes in line with the Infrastructure Guidelines outlined [here](https://www.gov.ie/en/collection/e8040-infrastructure-guidelines/#:~:text=The%20Infrastructure%20Guidelines%20sets%20out,assets%20or%20shareholdings%2C%20in%20Ireland)

**2. Circular 05/2023:**

[DPER Circular 05/2023 ‘Initiatives to assist SMEs in Public Procurement’](https://www.gov.ie/en/circular/9e7bf-circular-05-2023-initiatives-to-assist-smes-in-public-procurement/)

This Circular is designed to further enable SMEs in competing for public contracts and replaces Department of Public Expenditure and Reform Circular 10/2014. This Circular should be read in conjunction with the [Public Procurement Guidelines for Goods and Services (Version 3)](https://www.gov.ie/pdf/?file=https://assets.gov.ie/274554/f2343b55-9615-4708-b7d8-717fff330f1d.pdf#page=null) and the [Capital Works Management Framework](https://constructionprocurement.gov.ie/capital-works-management-framework/) as appropriate.

**3. Circular 05/2022:**

[DPER Circular 05/2022:'Construction Procurement Reform – Revised Guidelines for Professional Indemnity Insurance Levels in Public Works Projects'](https://constructionprocurement.gov.ie/wp-content/uploads/20220209-DPER-Circular-05-2022.pdf)

This Circular provides guidelines for professional indemnity insurance (PII) for public works projects procured under the Capital Works Management Framework (CWMF).

**4. Circular 20/2019:**

[DPER Circular 20/2019 'Promoting the use of Environmental and Social Considerations in Public Procurement'](https://www.gov.ie/pdf/?file=https://assets.gov.ie/37044/c392250066e440a8bda16e8e58afd60e.pdf#page=null)

The purpose of this Circular is to promote the wider use of Environmental and Social Considerations in Public Procurement. See [Section 1.18](#_1.18_Sustainable_Public) of this document.

**5. Circular 10/2018:**

[DPER Circular 10/2018: Construction Procurement Reform – Amendment to the threshold for the procurement of public works projects using the Short Public Works Contract](https://constructionprocurement.gov.ie/wp-content/uploads/DPER-Circular-10-18.pdf)

This circular amends sections 3 and 6 of Department of Finance Circular 04/08 (published 13/02/2008) in respect of the threshold value for which the [Short Public Works Contract (PW-CF6)](https://constructionprocurement.gov.ie/wp-content/uploads/PW-CF6-v1.14-19-07-2023.pdf) may be used to procure public works projects.

**6. Circular 16/2013:**

[DPER Circular 16/2013: ‘Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service’](https://circulars.gov.ie/pdf/circular/per/2013/16.pdf) (now Office of Government Procurement)

Circular 16/2013 reminds Public Bodies that such Central Procurement Frameworks put in place by the Office of Government Procurement (OGP) are targeted at securing best value for money and facilitating Contracting Authorities to deliver services within their budgetary constraints. This circular also reminds those procuring that they are **required** to use Central Procurement Frameworks where and when they are suitable to meet their needs. Where procurers for WCC do not utilise Central Procurement Frameworks they should provide relevant and specific justification in accordance with the purchase order/contract approval limits in their delegation. In the case of value for money justifications these should take into account the full costs of running a stand-alone public procurement competition. All justifications should be attached to the relevant requisitions on Agresso.

**7. Circular 07/2012:**

[Circular Fin 07/2012: ‘Notice on Publication of Purchase Orders over €20,000’](file:///G:\Shared\Procurement\Circulars%20&%20Policy)

Under the Public Service Reform Plan, every purchase order made by Government Department or Local Authority or Agency must be published online. This refers to payments for supplies, services or works procured. Payments in Wicklow County Council are published on the Council’s website on a quarterly basis.

**8. Circular 06/2010:**

[Circular 06/2010: ‘Construction Procurement Reform – the new Capital Works Management Framework’.](https://constructionprocurement.gov.ie/wp-content/uploads/circ0610.pdf)

Circular 06/2010 introduces and outlines the [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/).

## 2.5 Information Notes

The OGP regularly publishes policy information notes. These are subject to periodic review and amendment, with the most up-to-date version published [here](https://www.gov.ie/en/collection/f14cd-information-notes/). These notes are not intended as a substitute for legal advice or legal interpretation of Irish or EU law on Public Procurement.

Examples of these include:

* [Apprenticeships and Public Procurement](https://www.gov.ie/pdf/?file=https://assets.gov.ie/253981/b1fcb956-5e80-4009-a85d-c438340a4905.pdf#page=null) (April 2023)
* [Russian Sanctions](https://www.gov.ie/pdf/?file=https://assets.gov.ie/231022/e036202a-5c8e-4dcd-860b-0114e72cd640.pdf#page=null) (August 2022)
* [Brexit and Public Procurement](https://www.gov.ie/pdf/?file=https://assets.gov.ie/197317/e436f6f0-3694-4825-834e-219b279bd2f3.pdf#page=null) – Updated July 2021
* [Covid-19 (Coronavirus) and Public Procurement](https://www.gov.ie/pdf/?file=https://assets.gov.ie/213135/f3befded-5e8f-45a6-8246-cf753ee056e9.pdf#page=null) – Updated September 2021
* [European Single Procurement Document](https://www.gov.ie/pdf/?file=https://assets.gov.ie/265728/ec11ceb6-7dab-47b1-a2a2-a4c05a6c05da.pdf#page=null) (January 2019)
* [General Data Protection Regulation](https://www.gov.ie/en/publication/ebc33-general-data-protection-regulation-gdpr-may-2018/) (May 2018)

## 2.6 Capital Works Management Framework

The [Capital Works Management Framework](https://constructionprocurement.gov.ie/) (CWMF) is to be used by WCC Employees/others, (such as consultants), working for/on behalf of WCC, who are involved in the expenditure of public funds on **construction projects and related consultancy services** on behalf of WCC**.** It should be consulted when procuring Works and/or Works Related Services and the relevant documents they provide should be used as and when required and applicable.

The [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) suite of guidance, standard contracts and generic template documents applies to the procurement of all works and works related services as set out in [Circular 06/10](https://constructionprocurement.gov.ie/wp-content/uploads/circ0610.pdf) i.e. all aspects of the delivery process of a public works project from inception to final project delivery and review. It

includes a suite of standard pre-qualification questionnaires and standard declarations (CWMF Pillar 3) as well as standard Instructions to Tenderers and Forms of Tender (CWMF Pillar 1 for Works and Pillar 2 for Consultants). These are available to download from [here](https://constructionprocurement.gov.ie/capital-works-management-framework/).

Those procuring Works and/or Works Related Services on behalf of WCC should make themselves familiar with the latest relevant information and requirements for such procurement(s) by going to the [news section](https://constructionprocurement.gov.ie/category/news/) of the [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) website and its sections on various areas including [Sustainability & Green Public Procurement](https://constructionprocurement.gov.ie/sustainability/) and [Building Information Modelling](https://constructionprocurement.gov.ie/bim/).

Applicable circulars include [Circular 06/10](https://constructionprocurement.gov.ie/wp-content/uploads/circ0610.pdf), [10/2018](https://constructionprocurement.gov.ie/wp-content/uploads/DPER-Circular-10-18.pdf) , [05/2022](https://constructionprocurement.gov.ie/wp-content/uploads/20220209-DPER-Circular-05-2022.pdf) and [24/2023](https://www.gov.ie/pdf/?file=https://assets.gov.ie/279768/b9764869-58d6-4e5d-a691-b0425e49f05b.pdf#page=null). Section 2.2 of Circular [05/2023](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) also applies.

## 2.7 Central Government Procurement

The [Office of Government Procurement](https://www.gov.ie/en/organisation/office-of-government-procurement/?referrer=/) (OGP) has responsibility for developing and implementing national procurement policy and procedures.

The OGP established 16 Category Councils for the purchase of goods & services by the Public Sector. Through the OGP and the four key sectors (Health, Defence, Education and Local Government), the Public Sector speaks with ‘one voice’ to the market for each category of expenditure, eliminating duplication and using aggregated purchasing to leverage better prices.

The Category Councils are:

|  |  |
| --- | --- |
| **Lead** | **Category** |
| **OGP** | * Professional Services * Facilities Management & Maintenance * Utilities * ICT and Office Equipment * Marketing, Print and Stationery * Travel and HR Services * Fleet and Plant * Managed Services |
| **Local Government** | * Minor Building & Civil Works * Plant Hire |
| **Defence** | * Defence and Security |
| **Health** | * Medical Professional Services * Medical and Diagnostic Equipment and Supplies * Medical, Surgical and Pharmaceutical Supplies |
| **Education** | * Veterinary and Agriculture * Laboratory, Diagnostics and Equipment |

Since the publication in May 2023 of [DPER Circular 05/2023 ‘Initiatives to assist SMEs in Public Procurement’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null), access to all resulting central arrangements, as outlined above, are accessible (by self-register) via the Buyer Zone of the [OGP site](https://www.gov.ie/en/publication/57318-buy-goods-and-services/).

**The resulting central arrangements in the form of Contracts, Frameworks and Dynamic Purchasing Systems (DPSs) should be consulted prior to undertaking any procurement activities, and where possible these should be availed of.**

**All WCC Employees with purchasing power are obliged to self-register with the** [**Office of Government Procurement**](https://www.gov.ie/en/organisation/office-of-government-procurement/?referrer=/) **and routinely review the current and upcoming central arrangements they provide. Perusing these arrangements should be done as soon as a need to procure is identified.**

**Where WCC Employees do not utilise these central arrangements when procuring they should provide relevant and specific justification in accordance with the purchase order/contract approval limits in their delegation. In the case of value for money justifications these should take into account the full costs of running a public procurement competition. All justifications should be attached to the relevant requisitions on Agresso.**

The [DPER Circular 16/2013: ‘Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service’](https://circulars.gov.ie/pdf/circular/per/2013/16.pdf) (now the Office of Government Procurement), relates.

## 2.8 Local Government Procurement

The [Local Government Operations Procurement Centre](https://www.kerrycoco.ie/local-government-operational-procurement-centre/) (LGOPC), based in Kerry County Council, provides an operational procurement function to the local government sector.

The LGOPC maintains the [SupplyGov](https://www.supplygov.ie/) website (formerly LA Quotes), which is used to facilitate the operation for specified Frameworks and Dynamic Purchasing Systems (DPS) under the 2 category councils it leads on behalf of the Public Sector i.e. Plant Hire and Minor Building & Civil Works. This is a procurement system that Local Authorities and other Public Service Bodies use to run mini competitions under established frameworks and DPS for Plant Hire and Minor Building & Civil Works. Requests for associated quotations can also be managed through SupplyGov.

**When procuring on behalf of WCC, in relation to Plant Hire or Minor Building and Civil Works, the Frameworks and Dynamic Purchasing Systems (DPS) on the** [**SupplyGov**](https://www.supplygov.ie/) **website should be consulted prior to undertaking any procurement activities and, where possible, these should be availed of.**

**All WCC Employees with purchasing power who may need to procure Plant Hire and Minor Building & Civil Works are obliged to self-register with** [**SupplyGov**](https://www.supplygov.ie/) **and routinely review the current and upcoming central arrangements they provide. Perusing these arrangements should be done as soon as a need for Plant Hire/Minor Building & Civil Works is identified.**

**Where WCC Employees do not utilise these central arrangements when procuring Plant Hire and Minor Building & Civil Works they should provide relevant and specific justification in accordance with the purchase order/contract approval limits in their delegation. In the case of value for money justifications these should take into account the full costs of running a public procurement competition. All justifications should be attached to the relevant requisitions on Agresso.**

## 2.9 Thresholds and Advertising

The procurement procedures and timescales that apply will vary depending on the type of procedure chosen and the estimated value of the contract. **The value of the contract determines the procurement procedure.**

The following guidelines should be used when calculating the value of the contract.

* Estimated value is based on the total amount payable (exclusive of VAT), for the total duration of the contract, and inclusive of any form of options, extensions and renewals. When unsure of the term a good rule of thumb is 48 months.
* Estimated value must be valid at either the time when the contract notice is sent or when the award procedure commences.
* Subdivisions of requirements in order to circumvent EU or National requirements are not permissible.
* Where there is a requirement for the same goods/services across the organisation during the same period, the **aggregated** value is to be calculated and all departments/districts shall draw down from this contract/framework.

Article 5 ‘Methods for calculating the estimated value of procurement’ of [**Directive 2014/24/EU**](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024)relates.

|  |  |  |
| --- | --- | --- |
|  | **Thresholds (Ex-VAT)** | **Procedure** |
| **Local** | **Supplies and Services**  **< €5,000** | * Seeking at least one written quotation from a relevant and competent supplier/service provider is required, where no available contract/ framework/DPS is in place. * Best practice is to seek **3** written Quotations. * Contract Approval is required in accordance with Contract Approval Limits – See [Appendix 1](#_Appendix_1_–) * All paperwork and electronic files must be retained in accordance with related Information/Data Protection and Retention Legislation/Policies. |
| **Supplies and Services**  **€5,000 - €50,000** | * Direct Invitation seeking a minimum of **3** written Quotations from relevant and competent suppliers/service providers is required, where no available contract/ framework/DPS is in place. * Use of the Simplified Procedure on eTenders meets the above requirement. * [eTenders](https://www.etenders.gov.ie/epps/home.do) Call for Tender (CfT) should be considered if near upper limit. * Publish contract award information on eTenders for Contracts greater than €25,000 (ex-VAT), in accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null). * Contract Approval is required in accordance with Contract Approval Limits – See [Appendix 1](#_Appendix_1_–) * All paperwork and electronic files must be retained in accordance with related Information/Data Protection and Retention Legislation/Policies. |
| **Works Related Services**  **< €50,000** | * Direct Invitation seeking a minimum of **5** written Quotations from relevant and competent contractors is required, where no available contract/ framework/DPS is in place. Note there is no minimum value. * Use of the Simplified Procedure on eTenders meets the above requirement. * [eTenders](https://www.etenders.gov.ie/epps/home.do) Call for Tender (CfT) should be considered if near upper limit. * Publish contract award information on eTenders for Contracts greater than €25,000 (ex-VAT), in accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null). * Contract Approval is required in accordance with Contract Approval Limits – See [Appendix 1](#_Appendix_1_–). * [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) should be consulted and the relevant documents they provide should be used as and where required. * All paperwork and electronic files must be retained in accordance with related Information/Data Protection and Retention Legislation/Policies. |
| **Works <€200,000** |
| **National** | **Supplies, Services &**  **Works Related Services**  **€50,000 - €221,000** | * Mandatory to publish Tender on [eTenders](https://www.etenders.gov.ie/epps/home.do) where no available contract/ framework or DPS is in place. * For Supplies and Services use the Open Procedure, where reasonable and without comprising efficiency and value for money, in accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null). * For Works and Works Related Services the [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) should be consulted and the relevant documents they provide should be used as and when required. * Publish contract award information on eTenders for Contracts greater than €25,000 (ex-VAT), in accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null). * Contract Approval is required in accordance with Contract Approval Limits – See [Appendix 1](#_Appendix_1_–). * All paperwork and electronic files must be retained in accordance with related Information/Data Protection and Retention Legislation/Policies. * CE Order (delegated) is required for contracts of aggregated value, including any possible extensions, up to €1 million (ex-VAT). * CE Order is required for contracts of aggregated value, including any possible extensions, over €1 million (ex-VAT). |
| **Works**  **€200,000 - €5,382,000** |
| **EU** | **Supplies, Services**  **& Works Related Services**  **> €221,000** | * Mandatory to publish Tender in Official Journal of the European Union (OJEU) via [eTenders](https://www.etenders.gov.ie/epps/home.do) where no available contract/ framework/DPS is in place. * For Works and Works Related Services the [CWMF](https://constructionprocurement.gov.ie/capital-works-management-framework/) should be consulted and the relevant documents they provide should be used as and when required. * Within **30 days** of award, publish OJEU Contract Award Notice (CAN) in accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null)**.** * Complete Article 84 Report for audit purposes. * Contract Approval is required in accordance with Contract Approval Limits – See [Appendix 1](#_Appendix_1_–). * All paperwork and electronic files must be retained in accordance with related Information/Data Protection and Retention Legislation/Policies. * CE Order (delegated) is required for contracts of aggregated value, including any possible extensions, up to €1 million (ex-VAT). * CE Order is required for contracts of aggregated value, including any possible extensions, over €1 million (ex-VAT). |
| **Works > €5,538,000** |

## 2.10 Choice of Procedures and Timescales

The choice of Public Procurement Procedures and prescribed timetables which can be used depends on the nature and the value of the proposed procurement. The 5 main types of procedures are named below alongside some basic information. Articles 26 to 31 of [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024) relate. These are followed by the related timescales. Articles 27 to 31, 47 and 48 of [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024)relate. **This document concentrates on the two procedures that are generally used - the Open Procedure and the Restricted Procedure.**

1. **The Open Procedure.**

* One stage procedure: Anyone who wants to can submit a tender.
* This procedure allows a tenderer to simultaneously submit suitability assessment material and a tender for evaluation in a tender competition; but only those who pass the suitability test progress to the tender evaluation.
* Commonly used.
* In accordance with Section 3.4 of [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null), this procedure should be used for Supplies and Services for contracts valued below the EU advertising threshold, where reasonable and when efficiency and value for money are not compromised.

1. **The Restricted Procedure.**

* Two stage procedure.
* During the first stage expressions of interest to compete in the tender competition are considered. Only those who meet the criteria set out in the Selection Criteria are invited to submit a tender i.e. second stage.
* Commonly used.
* Suitable where there are large volumes of interest in the market, where tendering is expensive, where the buyer needs to manage risk.

1. **The Competitive Procedure with Negotiation.**

* Two stage procedure.
* This procedure allows the contracting authority to negotiate with more than one supplier in order to identify a preferred tenderer and to award a contract.
* Rarely used.

1. **The Competitive Dialogue Procedure.**

* This is a 3 stage procedure.
* This procedure allows the contracting authority to discuss different options with tenderers before deciding on a solution and is designed for certain particularly complex contracts, e.g. where technical solutions are difficult to define or where a discussion of the best legal or financial structure is needed. It is used for complex projects where the Open or Restricted Procedure would not be suitable to deliver the contract and specification cannot be developed.
* This procedure is rarely used, is often expensive and requiring specific expertise and legal advice.

1. **The Innovation Partnerships Procedure.**

* This is a multi-stage procedure, suitable for design adaptation or innovation e.g. for complex research type projects.
* Not suitable for ‘off-the-shelf’ solutions.

|  |  |  |
| --- | --- | --- |
| National Tenders | Receipt of Expression of Interest | Receipt of Tenders |
| Open Procedure | N/A | 21 days (minimum) |
| Restricted Procedure | 21 days | 21 days (minimum) |
| Above Threshold Tenders (OJEU) | Receipt of Expression of Interest | Receipt of Tender |
| Open Procedure | N/A | 30 days (minimum) via eTenders\*\*  15 days (minimum) via eTenders if preceded by suitable Prior Information Notice |
| Restricted Procedure | 30 days (minimum) | 25 days (minimum) via eTenders\*\*  10 days (minimum) via eTenders if preceded by suitable Prior Information Notice |
| Competitive Procedure with Negotiation | 30 days (minimum)  15 days (minimum)  if preceded by suitable  Prior Information Notice | 25 days (minimum) via eTenders\*\*  10 days (minimum) via eTenders if preceded by suitable Prior Information Notice |
| Competitive Dialogue | 30 days (minimum)  No reduction for  Prior Information Notice | No explicit  time limit for initial/subsequent tenders |
| Innovative Partnerships Procedure | 30 days (minimum)  15 days (minimum)  if preceded by suitable  Prior Information Notice | 25 days (minimum) via eTenders\*\*  10 days (minimum) via eTenders if preceded by suitable Prior Information Notice |

*\*\*Tenders to be received via eTenders. Receiving hard copy tenders is only acceptable for limited, specific and valid reasons such as accepting 3D models and as per Instructions to Tenderers and Tender Request Documents. In such instances 35 days (minimum) applies for receipt of hard copy tenders using the Open Procedure, while 30 days (minimum) applies for receipt of hard copy tenders using the Restricted Procedure, the Competitive Procedure with Negotiation and using the Innovative Partnerships Procedure. If considering receiving hard copy tenders contact the Procurement Unit at the earliest opportunity i.e. before the creation of tender documents.*

## 2.11 Common Procurement Vocabulary

The Common Procurement Vocabulary (CPV) is a detailed system of codes for describing goods, services or works to be advertised on eTenders and in the Official Journal of the EU (OJEU). It is available [here](https://simap.ted.europa.eu/web/simap/cpv).

Those procuring on behalf of WCC must select the correct CPV Codes appropriate to the subject matter of the contract advertised in order for registered suppliers to be notified of the competition. CPV Codes define the type of contract and must be entered on eTenders. CPV Codes can be summarized as follows:

* Supplies Contracts Series 01 to 44 & 48
* Works Contracts Series 45
* Service Contracts Series 50 to 99

## 2.12 Publication of Notices

**Prior Information Notices**

The purpose of a Prior Information Notice (PIN) is to alert the market to upcoming procurement opportunities and aids transparency for the benefit of suppliers. The period covered by the PIN should not be more than 12 months from the date on which it is published. A PIN must contain the information listed in Part 2 of Schedule 3 of the [2016 Regulations](https://www.irishstatutebook.ie/eli/2016/si/284/made/en/print?q=award+of+public+authority+contracts&years=2016). Publication of a PIN does not commit contracting authorities to purchasing or proceeding with a project if circumstances change.

In some procedures it is possible to reduce the minimum time limits where a suitable PIN has been published if certain conditions are met, (namely that the PIN was published between 35 days and 12 months before the date on which the Contract Notice was sent and that all the required information listed in Part 2 of Schedule 3 of the [2016 Regulations](2016%20Regulations) was contained in the PIN).

**Contract Notices**

Contract Notices set out the key details of the procurement requirements and the type of contract being advertised. The information required in the Contract Notice is set out in Part 3 of Schedule 3 of the [2016 Regulations](https://www.irishstatutebook.ie/eli/2016/si/284/made/en/print?q=award+of+public+authority+contracts&years=2016).

Competitions for National or European Level Contracts/Frameworks/Dynamic Purchasing Systems will be advertised by means of a Contract Notice. There are a number of contract notices available to buyers on eTenders dependent on the type of procedure and whether advertising at National or European Level.

**Contract Award Information and Contract Award Notices**

In accordance with Circular 05/23, WCC Employees are required to publish contract award information on [the eTenders procurement website](http://www.etenders.gov.ie), for all procurements over €25,000 (exclusive of VAT). This is required for all contracts whether the competition was advertised on the eTenders Platform or not (for example, via an OGP Framework, SupplyGov, quotations). This includes contracts under a framework agreement/DPS. This is a separate requirement to other obligations that Public Bodies have to publish information on contracts derived from other government guidelines.

Section 2.3 of [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null) relates.

**Cancellation Notices**

If not proceeding with the award of a contract for whatever reason, a Cancellation Notice must be published and must provide details of the nature of the contract, the publication reference and date and state “Please note this call for competition is now cancelled”.It should be noted that WCC do not have to award a contract, but the decision to cancel may be reviewable by the Courts if a challenge is taken.

## 2.13 Framework Agreements

A competitive tender process also applies to the establishment of Framework Agreements; between one or more contracting authorities and one or more suppliers. These are agreements which establish some or all of the terms on which contracts for supplies, services or works can be entered into during the period of the agreement without further advertising. The following criterion applies:

* Can be concluded with a single supplier for a single supplier framework or multiple suppliers, with a minimum of 3 if available, for a multi-party framework.
* Can be used for all value contracts including above EU threshold contracts.
* Can last for up to four years.
* Suppliers access the framework agreement via eTenders competition, using Open or Restricted procedure.
* No rules on timescales for receipt of tenders under mini-competition (but should be realistic).
* Once established, no additional suppliers can be considered.

Article 33 of [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024)relates.

## 2.14 Dynamic Purchasing Systems

Dynamic Purchasing Systems (DPS) are suitable for commonly used purchases. The process is completely electronic and is similar to an electronic framework in that WCC may use it to award contracts by mini-competition between suppliers on the DPS. However, it is unlike a framework in that the appointment to the DPS is on the basis of pre-qualification criteria and new suppliers can be added over its duration.

Article 34 of [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024) relates.

## 2.15 Service Concessions

A Service Concession is a grant for rights for the exploitation of land or property to a private company, in return for service or for a particular use. [S.I. No. 203/2017 - European Union (Award of Concession Contracts) Regulations 2017](https://www.irishstatutebook.ie/eli/2017/si/203/made/en/print?q=concession+contracts) relates.

# Section 3 – Public Procurement Process

## 3.1 Introduction

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

A **quotation** procedure may be used when a suitable centralised purchasing arrangement is not in place and when a supplies or services contract value is less than €50,000 (ex-VAT) or when a works contract value is less than €200,000 (ex-VAT). It should be noted that these thresholds apply to the organisation as a whole, for the procurement of similar supplies, services or works, hence the importance of procurement planning and aggregation of need.

Those procuring should ensure that matters such as, (but not limited to), Insurance, Taxation, Freedom of Information, Health & Safety, Child Safety, Green Public Procurement, Social Considerations, Life-Cycle Costing and Energy Management are considered not only when seeking tenders, but also when seeking quotations.

A **tender** procedure is used when a suitable centralised purchasing arrangement is not in place and when a supplies or services contract value is greater than €50,000 (ex-VAT) or when a works contract value is greater than €200,000 (ex-VAT). It should be noted that these thresholds apply to the organisation as a whole, for the procurement of similar supplies, services or works, hence the importance of procurement planning and aggregation of need.

The specific requirements of particular tender/contract documentation obviously take precedence over the following, very general, outline.

## 3.2 Centralised Purchasing Arrangements

The Office of Government Procurement (OGP) and other government bodies create centralised purchasing arrangements for the procurement of certain supplies, services and works for use by the wider Public Sector. WCC is required to use these centralised purchasing arrangements and it is therefore WCC’s Policy to do so. These differ from collaborative procurement between groups of Local Authorities.

**When procuring on behalf of WCC, WCC Employees should consider these arrangements** **first**.Decisions not to use these arrangements should be explained by way of a report containing relevant, specific and justified reasons.

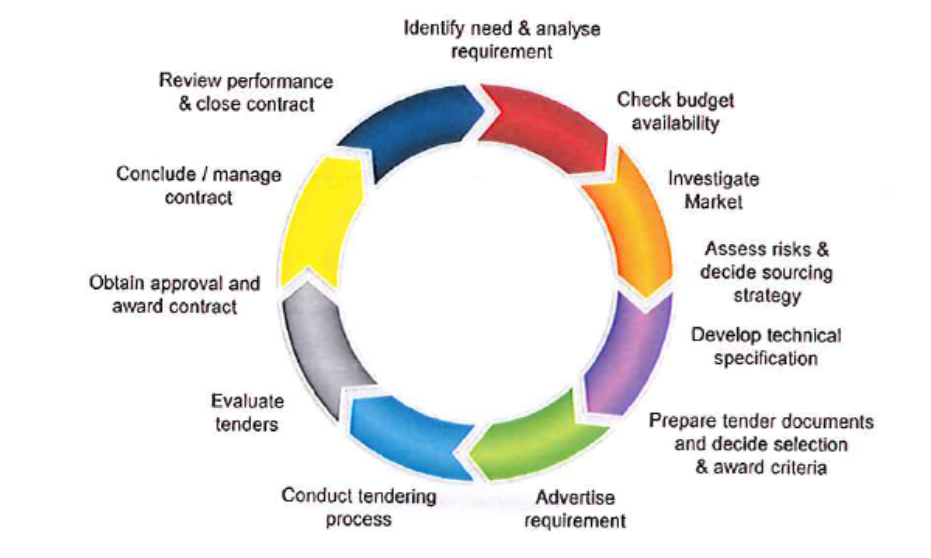
Where purchases are being considered, WCC Employees are required to ascertain if WCC is currently availing of these arrangements by contacting the relevant Directorate/Section/Contract Registrar (currently with Procurement Unit).

The Contract Registrar (currently with Procurement Unit) must be informed when Centralised Purchasing Arrangements are activated.

See Sections [2.7](#_2.7_Central_Government) and [2.8](#_2.8_Local_Government).

## 3.3 Public Procurement via Tendering

As outlined below, a procurement project will proceed through various stages of a procurement cycle.



See [Appendix 4](#_Appendix_4_–).

### 3.3.1 Identify Need & Analyse Requirement

Each individual Directorate/Section should have a comprehensive understanding of their purchasing requirements, including existing arrangements with current suppliers. Not only should historical spend data from Agresso be used when analysing requirements but Sustainable Public Procurement (SPP) should also be to the forefront of the minds of those identifying need and analyzing requirement i.e. it should influence procurement for/on behalf of WCC from this very early point of the procurement cycle and all those procuring should be reminded of the Green Public Procurement Implementation Mandate as outlined in Section 1.19 of this document and in [‘Buying Greener: Green Public Procurement Strategy and Action Plan 2024-2027’](https://www.gov.ie/pdf/?file=https://assets.gov.ie/288344/3b6eece7-7d30-47c5-895e-0512a0e9b3f8.pdf#page=null)

When a requirement for supplies, services or works has been identified, a Procurement Project Manager should be selected by the Director of Services/Head of Section to lead the procurement project. At this stage an evaluation team should be established which will have responsibility for reviewing the Call for Tender (CfT) documents prior to publication and the evaluation/scoring of tenders are received.

The Project Manager is encouraged to contact the Procurement Unit at the earliest opportunity to ensure the most suitable procedure is selected.

### 3.3.2 Check Budget Availability

The Project Manager should check that there is sufficient budgeted funding to meet the value of the proposed procurement and determine the account element, job code and product codes to be used.

### 3.3.3 Investigate the Market

Research should be undertaken to gain up to date information on the current market, the number of potential suppliers and the availability of options relating to matters such as Sustainable Procurement, Green and Social Considerations, Life-Cycle Costing, Energy Consumption etc. Creative solutions and innovative approaches should also be considered. Market research can be as simple as conducting an internet search. However, it is vital that the research is thorough as project managers need to make themselves aware of the current external market environment, supply chains and good/services/works availabilities, as areas which form and influence these are rapidly evolving; such as but not limited to, Sustainable Procurement Legislation, Climate Action Targets, Digitalisation, Technology, Financial Markets etc. Project Managers should ensure that any market research or soundings does not result in the Call for Tender specification/scope/focus being unduly influenced by a particular supplier or particular suppliers.

### 3.3.4 Decide the Sourcing Strategy

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

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

The Project Manager is encouraged to contact the Procurement Unit at the earliest opportunity to ensure the most suitable sourcing strategy is selected.

### 3.3.5 Specification

When developing or setting out the specification of requirements, the Project Manager should refer to Section [2.1](#_2.1_Public_Procurement) and incorporate these principles into the specification. The Project Manager should also incorporate Environmental Technical Specifications as and where possible.

Specifications should be drafted as follows:

* Requirement to be stated clearly, concisely and logically.
* State the function that the requirement must meet i.e. identify what, not how.
* Eliminate use of brand names.
* Specification to form the basis of the contract.
* Allow for equal opportunity.

There can be a tendency to over specify the requirements and this can cause additional cost to the overall tender and not achieve value for money. The project “**needs**” should be attained rather than the “wants” or “nice to have” options. Specifications should be performance based where possible, with the option of using variants as this can allow for innovate solutions to be proposed. The tender documentation and award criteria need to cater for this.

### 3.3.6 Preparing Tender Documents

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

For below threshold tenders, the LGMA templates are to be used. These templates are available under G:\Shared\Procurement. For above threshold tenders, the suite of template documents for the purchase of supplies and services developed by the OGP are to be used. These are available [here](https://www.gov.ie/en/collection/8ced3-templates-goods-and-general-services/).

Where a tender process is conducted under a Framework Agreement (also known as a mini-competition), the terms and conditions prescribed in the original Framework Agreement must be referenced.

The [Capital Works Management Framework (CWMF)](https://constructionprocurement.gov.ie/capital-works-management-framework/) template documents are to be used for works/construction projects and works related consultancy.

For Irish Green Public Procurement Criteria to be inserted directly into tender documents visit the Environmental Protection Agency’s site [here](https://www.epa.ie/publications/circular-economy/resources/green-public-procurement-guidance.php) and see [Section 1.19](#_1.19_Green_Public) of this document.

### 3.3.7 Selection Criteria (Qualifying Criteria)

Selection Criteria must be clearly indicated in the tender documents (Expression of Interest, Call for Tender etc.). Selection Criteria tests the suitability of the candidates, it examines their previous experience and has minimum rules that must be passed in order to proceed further in the evaluation process. Transparent and non-discriminatory selection criteria should be used to test suitability.

Selection Criteria has two elements; (i) Economic/Financial and (ii) Technical/Professional. These relate to the tenderer not their response to the Call for Tender. In the Open Procedure, selection criteria are evaluated on a pass/fail basis to decide which tenderers are suitable. In the Restricted Procedure (or other multi-stage procedures) selection criteria are usually evaluated on a weighting and scored to decide which candidates should proceed to the tender invitation stage.

Selection Criteria, (economic/financial and technical/professional), need to be proportionate and related to the subject matter of the contract. A “self-declaration” approach for the provision of the necessary financial evidence applies. This requires documentation to be submitted to the Contracting Authority as and when required. In the interests of equal treatment it is essential that any stated required proofs are in fact verified by the Contracting Authority prior to contract award.

In some cases, a ‘Suitability Assessment Questionnaire’ may be issued, such as when using the Restricted Procedure.

**Examples of Selection Criteria:**

|  |  |  |
| --- | --- | --- |
| **Economic / Financial Criteria** | | |
| **Criteria** | **Rule or Minimum Level** | **Pass / Fail** |
| Evidence of Turnover/Financial Standing | Demonstrate turnover of €x for the previous x years. | Pass/Fail |
| Completion of self-declaration form in respect of insurances, tax clearance etc. | Provide evidence or complete self-declaration form (documentary evidence must be provided prior to awarding of contract or inclusion on a tender list). | Pass/Fail |
| **Technical / Professional Criteria** | | |
| **Criteria** | **Rule or Minimum Level** | **Pass / Fail** |
| Organisation Details: Skills, Manpower numbers | Provide information confirming access to minimum manpower levels / skills. | Pass/Fail |
| Previous contracts of similar nature successfully delivered during last 3 years | Provide satisfactory previous experience – submit no. of contracts and supporting references in the last 3 years with comprehensive information to enable assessment of comparability. | Pass/Fail |
| Quality Control systems – ISO standard or equivalent | Provide satisfactory evidence of Company Quality Control systems/Certs. | Pass/Fail |
| Health & Safety Statement | Provide evidence that company has a current Health & Safety Statement. | Pass/Fail |

Each of the Selection Criteria must achieve a pass in order to proceed to evaluation of Award Criteria.

It should be noted here that Green Public Procurement should be incorporated into the Selection Criteria. Suppliers could, for example, be asked to provide references where environmental and sustainable considerations were used in the delivery of public or comparable private contracts or ISO environment, energy and/or product standards that are minimum requirements.

**Exclusion from participation in a Public Contract**

Article 57 of the [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024) provides that any candidate or tenderer convicted by final judgement shall be excluded, (where the contracting authority is aware of the fact), on the following grounds:

* Participation in a criminal offence.
* Corruption.
* Fraud.
* Terrorist offences.
* Money Laundering.
* Child labour and other forms of trafficking in human beings.
* Guilty of grave professional misconduct, which can be shown
* Failure to fulfil tax obligations.

### 3.3.8 Award Criteria

Award Criteria are required to be clearly indicated in the Call for Tender documents. The Award Criteria examine the capability of the tenderer’s response to meet the requirements set out in the tender specifications. They should be set relative to the risk and nature of the contract being awarded.

Lowest Price Award Criteria only allows for the price submitted to be evaluated i.e. no other award criteria can be evaluated. The [2016 Procurement Regulations](https://www.gov.ie/pdf/?file=https://assets.gov.ie/136772/afee49cf-44e2-4f15-ae28-df78228c71dd.pdf#page=null) provide that a contract shall be awarded on the basis of the Most Economically Advantageous Tender (MEAT)/Best Price Quality Ratio (BPQR). This also allows for life-cycle costs to be taken into account, (see [Section 1.20](#_1.20_Life-Cycle_Costing)). Use of MEAT/BPQR Award Criteria is based on a combination of financial cost and quality. Each Award Criteria must specify the relative weighting to be used for evaluation. Green Public Procurement Qualitative award Criteria should be applied when they can be linked to the subject matter of the contract.

Examples of Award Criteria applicable to MEAT/BPQR include:

* Ultimate cost (acquisition, operational and disposal costs)
* Period of completion
* Reliability and continuity of supply
* Quality, quantity and balance of resources offered
* Technical merit
* Environmental characteristics
* Functional characteristics
* Project plan
* After sales service
* Technical assistance
* Sustainability

**Example of Award Criteria – Supplies/Services Contracts**

|  |  |  |  |
| --- | --- | --- | --- |
| Criteria | Weighting | Total Score Available | Minimum Score Required |
| Ultimate Cost € | 50% | 5,000 | n/a |
| Quality of Product Offered | 20% | 2,000 | 1,200 (60%) |
| Delivery Schedule Proposed | 15% | 1,500 | 900 (60%) |
| Contract Management | 10% | 1,000 | 600 (60%) |
| Reliability & Continuity of Supply | 5% | 500 | 300 (60%) |

**Formula for calculating ultimate cost:**

|  |
| --- |
| **Ultimate Cost (UC) of each tender is calculated as follows:** |
| Ultimate Cost= Maximum marks available x Cost of lowest valid tender  Cost of tender being assessed |

### 

**Possible scoring ranges and rating options:**

|  |  |  |
| --- | --- | --- |
| **Rating** | **% Scoring Options** | **Description** |
| Excellent | 86-100% | Excellent response with very few or no weaknesses that fully meets or exceeds requirements, and provides comprehensive, detailed, and convincing assurance that the Tenderer will deliver to an excellent standard. |
| Very Good | 71-85% | A very good response that demonstrates real understanding of the requirements and assurance that the Tenderer will deliver to a good or high standard. |
| Good | 55-70% | A satisfactory response which demonstrates a reasonable understanding of requirements and gives reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark. |
| Fair | 40-54% | A response where reservations exist and which have not been addressed by clarification. Lacks full credibility/convincing detail, and there is a significant risk that the response will not be successful. |
| Poor | 25-39% | A response where serious reservations exist. This may be because, for example, insufficient detail is provided (even post clarification), and the response has fundamental flaws, or is seriously inadequate or seriously lacks credibility with a high risk of non-delivery. |
| No Evidence | Below 25% | Response completely fails to address the criterion under consideration. |

A minimum rating of Good (55-70%) is required; failure of a tenderer to achieve the minimum score under any of the criteria will result in elimination from the competition.

### 3.3.9 Advertise and Conduct Tendering Process

In accordance with [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null), all supplies and services contracts with a value greater than €50,000 (ex-VAT) and works contracts greater than €200,000 (ex-VAT) must be advertised on [eTenders](https://www.etenders.gov.ie/epps/home.do).

There are prescribed timescales for advertising tender notices. See Section [2.10](#_2.10_Choice_of). A set time period for the submission of clarifications by the tenderer should be built in. The period for clarifications should end a minimum of one week prior to the closing date of the tender.

Expressions of Interest and Calls for Tender should be published on eTenders for direct downloading by suppliers.

A Local Tender Reference Number must be sought from the Procurement Unit, by email, at least 7 days prior to publishing a tender on eTenders and it should be included in the title or short description of the Call (Request) for Tender.

When seeking a Local Tender Reference Number the following information is required:

* Whether it is Supplies/Services/Works.
* Whether a one off contract is being awarded or a framework/DPS is being established.
* The details of the parent framework/DPS if this is a mini competition from an already established framework/DPS.
* The CE/CE (delegated) Order number covering the establishment of the parent framework/DPS.
* Whether it is a National or EU competition.
* A short Description of the competition.
* Whether it is an Open or a Restricted Procedure.
* Whether any Green elements were used in the Tender e.g. in Award Criteria/elsewhere.
* Whether any Social Considerations use used in the Tender e.g. in Award Criteria/elsewhere.

**National Tenders Advertised on eTenders:**

Wicklow County Council Policy and best practice for National Tenders (below EU Thresholds) is to allow for a **minimum** of 21 calendar days in order to give tenderers adequate time to submit a tender and to encourage competition from the supply market. This criterion applies to both open and restricted procedures as per Section [2.10](#_2.10_Choice_of). Shorter timescales may be considered in cases of genuine and extreme urgency i.e. not due to a lack of planning by WCC and in such circumstances a CE (delegated) or CE Order (depending on contract value) is required. Such situations should rarely arise.

**EU Tenders advertised on OJEU (through eTenders website):**

The EU Directives set the prescribed time periods for OJEU tenders. These are given in Section [2.10](#_2.10_Choice_of).

**Questions and Clarifications:**

Tenderers should be instructed to submit questions and clarifications via eTenders only. Clarification/information provided in response to a question by a tenderer should be replied to all tenderers via the relevant facility on eTenders, when applicable to all and with due cognisance of matters such the need to maintain tenderers anonymity and commercial sensitivity. No other consultation/communication should be held with potential tenderers once the tender process is underway (i.e. once the Contract Notice has been advertised on eTenders). This is to ensure the principle of equal treatment is consistently applied.

**Submission of and Receipt of Tenders:**

* Tenders must be submitted electronically via the eTenders website i.e. online, not offline.
* No hard copy tender responses may be received WCC/by those acting on WCC’s behalf other than in valid, prescribed and exceptional circumstances as outlined under the footnote under Section [2.10](#_2.10_Choice_of).
* The designated closing time for all Wicklow County Council tenders is 12 noon.
* Guidance on the rules in relation to the tender competition should be clearly outlined in the Instruction to Tenderers (ITT) or the Call for Tenders (CFT). It is acknowledged that the standard template ITT/CFT contained in the Capital Works Management Framework and the Office of Government Procurement can vary depending on the type of procurement process.

**Opening of Tenders:**

After the expiry of the closing date (and time) tenders should be opened by those appointed to do so on and via the eTenders facility for same.

### 3.3.10 Evaluation of Tenders

It is the responsibility of the Project Manager or nominated person to commence the evaluation process. The Evaluation Team should consist of at least three people, with a chairperson appointed. Declarations of Confidentiality and Conflict of Interest must be signed by all members of the Evaluation Team – [See Appendix 3](#_Appendix_3_-).

Tenders must be evaluated objectively and transparently against the published (Selection and Award) Evaluation Criteria. Objectivity and transparency is best achieved by the use of a scoring system or marking sheet based on the published criteria and weightings. See Sections [3.37](#_3.3.7_Selection_Criteria) and [3.38](#_3.3.8_Award_Criteria).

The Chairperson (who is usually the Project Manager) is responsible for the administration of the evaluation process and for presenting the recommendation of the Evaluation Team to the Director of Services (or delegated person). Individual and summary evaluation sheets must be signed by all members of the evaluation team and retained on file. The reasons for the scores given and the relative characteristics recorded against each tender submission will form the basis of the notification to tenderers. These records are subject to Freedom of Information Legislation.

### 3.3.11 Obtain Approval and Award a Contract

All employees are required to obtain appropriate approval in accordance with and subject to the purchase order/contract approval limits in their delegation (see [Appendix 1](#_Appendix_1_–)), and to ensure that the requirements of [Appendix 2](#_Appendix_2_-) have been followed prior to accepting a tender/awarding a contract, thereby authorizing the issue of notification letters to tenders.

Template outcome letters are available in Appendices 3 and 6 of [Public Procurement Guidelines for Goods and Services (Version 3)](https://www.gov.ie/pdf/?file=https://assets.gov.ie/274554/f2343b55-9615-4708-b7d8-717fff330f1d.pdf#page=null).

Either Chief Executive Approval or Chief Executive (delegated) Approval may be required. To ascertain same see [Section 1.9](#_1.9_Chief_Executive).

The related CE Order/delegated Orders must contain the following:

* eTenders reference and, if applicable, the OJEU reference.
* Description of competition as advertised.
* Name and address of successful tenderer.
* Outline of the tender process used.
* Recommendation of Evaluation Team.
* Details of contract value (ex-VAT), including all possible extensions\*\*\*.
* Duration of contract including start and end dates, plus those of any possible extensions.

*\*\*\*If an exact contract value cannot be determined at the outset, an estimated maximum contract value (ex-VAT) should be provided as per CfT documentation.*

**Notification to Tenderers (Standstill Period)**

Tenderers who **do not** meet the minimum evaluation (selection and/or award) criteria are deemed “Inadmissible” under Public Procurement Rules and are subject to different notification requirements where they are only entitled to receive their own scores, reasons for failure and the name of the successful tenderer.

Tenderers who **do** meet the minimum evaluation criteria are ranked based on scores achieved.

Public Procurement Rules specify that the unsuccessful tenderers must be provided with their scores as well as the name and scores of the successful tenderer in the notification. For EU value contracts, the characteristics and relative advantages of the successful tender must also be provided alongside specific relevant feedback relating to the tender submission of the unsuccessful supplier.

For national (below EU threshold) contract values, it is recommended this information be provided.

**Formal or Informal Debriefing of Tenderers**

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

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

**Contract Award Information**

The Project Manager is responsible for ensuring contract award information is posted on eTenders and OJEU (where applicable and within 30 days of the award).

**Retention of Tender & Contract Documentation**

All tender and contract documentation must be retained for the minimum periods and in the manner set out in the retention schedules contained in the [National Retention Policy for Local Authority Records](https://www.lgma.ie/en/publications/corporate/national-retention-policy-for-local-authority.pdf) and shall be produced for inspection by the EU, Local Government or Internal Auditor if required.

Article 84 Reports are required to be created and stored for EU Level Competitions.

### 3.3.12 Conclude/Manage a Contract

After the expiry of the standstill period, the successful tenderer and the Council must conclude, (i.e. sign), a written agreement setting out the terms and conditions of the contract, prior to commencement of services. This is to ensure that there is a clear understanding between the parties in respect of their agreement and will mitigate disputes arising during the performance of the contract.

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

The awarding of contracts to suppliers places legal obligations on the Council. All employees are bound to ensure that the Council is not placed under any undue form of legal exposure.

The execution and management of a contract is the responsibility of a Contract Manager to be appointed by the relevant Director of Services/Head of Section.

WCC’s Contract Registrar (currently in the Procurement Unit) must be informed of all contracts entered into by WCC.

### 3.3.13 Review Performance and Close Contract

Contract Managers should ensure that all existing contracts are monitored to ensure supplier performance and their conformity with the specification of requirements and tender submission. These may include green performance reporting clauses.

## 3.4 Modifying a Contract

When a contract has been modified without a new procurement procedure, in adherence with Article 72 of [Directive 2014/24/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024), the specific, relevant and justified reasons must be provided in the related CE/delegated CE Order and as per the purchase order/contract approval limits.

## 3.5 Relevant Contracts Tax

Relevant Contracts Tax (RCT) applies to payments made by a principal contractor to a subcontractor under a relevant contract (this is a contract to carry out, or supply labour for the performance of relevant operations in the [construction](http://www.revenue.ie/en/tax/rct/construction-operations.html), [forestry](http://www.revenue.ie/en/tax/rct/forestry-operations.html) or [meat processing](http://www.revenue.ie/en/tax/rct/meat-processing-operations.html) industry). RCT applies to both resident and non-resident contractors operating in the construction, forestry or meat processing industry.

All principal contractors in the construction sector such as Wicklow County Council are obliged to engage electronically with Revenue and should:

* Notify Revenue in advance of works commencing of all contracts online ([Contract Notification](http://www.revenue.ie/en/tax/rct/contract-notifications.html))
* Notify payments online ([Payment Notification](http://www.revenue.ie/en/tax/rct/payment-notification.html))
* Provide a copy or details of the Deduction Authorisation to the Subcontractor
* Submit monthly/quarterly returns online ([Deduction Summary / Return](http://www.revenue.ie/en/tax/rct/deduction-summary-return.html))
* Make payments of RCT deducted

**Demonstration of a satisfactory level of subcontractor tax compliance**

*Before the awarding of the contract:*

It will be a condition for the award of the contract that all sub-contractors employed on the project must produce a tax reference number where payments exceed €650.

Before a relevant contract (i.e. a contract that is subject to RCT) is awarded, subcontractors at 0% or 20% can produce a Subcontractor’s Notification of Determination issued under Section 530I Taxes Consolidation Act 1997 showing the rate determined by Revenue to demonstrate their satisfactory subcontractor tax compliance. The Contracting Authority or Principal can accept the Subcontractor’s Notification of Determination if it has been issued within the previous 30 days.

*After the awarding of the contract:*

Where a relevant contract (i.e. a contract that is subject to RCT) has been awarded to a subcontractor, the Contracting Authority or Principal Contractor must notify Revenue of the relevant contract online under Section 530B Taxes Consolidation Act 1997. In response to such a notification, Revenue will issue an instant acknowledgement indicating the appropriate rate of 0%, 20% or 35%. Where a 35% rate is indicated, the contracting authority or principal will be aware that the subcontractor has not demonstrated a satisfactory level of subcontractor tax compliance and the contracting authority will require a current tax clearance certificate in order to proceed with payment.

When a subcontractor’s rate is amended by Revenue or as the result of a rate review by the subcontractor, the contracting authority or principal will be notified of the change in rate.

If a subcontractor who previously demonstrated a satisfactory level of subcontractor tax compliance is moved to the 35% rate, the contracting authority will require a current tax clearance certificate in order to proceed with payment.

**Penalties for unreported payments**

| **Sub-Contractor** | **Penalty Rate** |
| --- | --- |
|  |  |
| Unknown | 35% |
| 0% | 3% |
| 20% | 10% |
| 35% | 20% |

## 3.6 eProcurement

All tenders should be advertised, received and conducted electronically on the eTenders or SupplyGov web portals. All related queries and clarifications should be conducted via these platforms only. No hard copy tender responses may be accepted by WCC/by those acting on WCC’s behalf other than in valid, prescribed and exceptional circumstances as outlined in the footnote under Section [2.10](#_2.10_Choice_of).

## 3.7 Tax Clearance and Other Required Proofs.

It is a condition of a contract award that the successful tenderer(s) shall for the term of such contract(s), comply with all EU and domestic tax laws. Prior to the award of a contract, the successful tenderer is required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of its tax status by the Contracting Authority. By supplying these reference numbers the successful tenderer acknowledges and agrees that the Contracting Authority has the permission of the successful tenderer to verify online its tax clearance status.

At this time any other required proofs should also be sought. The nature of such proofs will be dependent upon the contents of the Call for Tender. In the interests of equal treatment it is essential that any stated required proofs are in fact verified by the Contracting Authority prior to contract award.

Documentary evidence of the required insurance will be required when a candidate is being assessed for shortlisting in a Restricted Procedure or has been identified as a successful tenderer in an Open Procedure procurement competition. [See Section 1.10](#_1.10_Insurance). It is permissible for WCC to seek documentary evidence of the required insurance at any point during the resulting contract.

## Appendix 1 – Purchase Order/Contract Approval Limits

|  |  |  |
| --- | --- | --- |
| **Purchase Order/Contract Approval Limits** | | |
| **Approver Grades:** | | **Approval Limit per order:** |
| Group 1 | Staff Officer  Senior Executive Technician  Clerk of Works  Chief Technician | €6,500 |
| Group 2 | Senior Staff Officer  Executive Engineer  Executive Chemist  Executive Planner  District Administrator | €15,000 |
| Group 3 | Administrative Officer  Senior Executive Engineer  Senior Executive Planner  Vet  Senior Executive Chemist | €50,000 |
| Group 4 | Senior Executive Officer  Senior Engineer  Senior Planner  County Librarian  Chief Fire Officer  Head of Information Systems | €125,000 |
| Group 5 | Director of Services | Up to €1million |
| Group 6 | Chief Executive | Greater than €1million |

**Responsibility for ensuring that the acceptance of quotations or tenders for the purchase of supplies, services or works does not facilitate multiple lower value competitions or contracts being used to circumvent more appropriate and prescribed procurement methods lies with both the contract owner and purchase order/contract approver, in accordance with the approval limits in their delegation as provided in the table above.**

**If approvers are not satisfied when approving the acceptance of quotations or tenders for the purchase of supplies, services or works that multiple lower value competitions or contracts have not been used to circumvent a more appropriate and prescribed procurement method they are required to contact the Procurement Unit to discuss potential/possible correct procurement procedures/aggregation.**

## Appendix 2 - Procurement Process Requirements and Procedures

**Table 1 – Supplies or Services Contracts**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Less than €5,000 (ex-VAT)** | **€5,000 - €50,000**  **(ex-VAT)** | **€50,000 - €221,000**  **(ex-VAT)** | **Greater than €221,000**  **(ex-VAT)** |
| **Recommended Process** | Confirm budget in place  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service.  If yes, avail of same.  If not, define Selection and Award Criteria.  Seek and obtain minimum of one written quotation for specific requirement from a relevant and competent supplier/service provider.  Evaluate quotation(s) objectively against specified requirements.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Ascertain or Seek Procurement Reference.  Raise Purchase Order (details to be included on MS7 Requisition Request Form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. | Confirm budget in place  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service  If yes, avail of same.  If not, define Selection and Award Criteria.  Seek and obtain minimum three written quotations for specific requirement from relevant and competent supplier/service providers.  Evaluate quotation(s) objectively against specified requirements.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Publish Contract Award Notice on eTenders for contracts greater than €25,000 (ex-VAT).  Forward contract details to Procurement Unit for Contracts Register.  Ascertain or Seek Procurement Reference.  Raise Purchase Order (details to be included on MS7 Requisition Request Form and QRF form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. | Confirm budget in place  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service  If yes, avail of same.  If not, define Selection and Award Criteria.  Get Local Tender Reference Number from Procurement Unit.  Prepare tender documentation  Advertise on eTenders.  Establish Evaluation Team. Assess & Evaluate Tenders.  Prepare Tender Report for approval.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Create CE Order/CE (delegated) Order. Have it approved.  Award Contract.  Publish Contract Award Notice on eTenders.  Forward contract details to Procurement Unit for Contracts Register.  Seek Procurement Reference from Procurement Unit.  Raise Purchase Order (details to be included on MS7 Requisition Request Form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. | Confirm budget in place  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service  If yes, avail of same.  If not, define Selection and Award Criteria.  Choose tendering procedure  Get Local Tender Reference Number from Procurement Unit.  Prepare tender documentation  Advertise on OJEU via eTenders.  Establish Evaluation Team. Assess & Evaluate Tenders  Prepare Tender Report for approval.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Create CE Order/CE (delegated) Order. Have it approved.  Award Contract.  Publish Contract Award Notice on OJEU within 30 days of Award.  Complete Article 84 Report.  Forward contract details to Procurement Unit for Contracts Register.  Seek Procurement Reference from Procurement Unit.  Raise Purchase Order (details to be included on MS7 Requisition Request Form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. |

**Table 2 – Works or Works Related Services Contracts**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Works Related Services less than €50,000 or Works less than €200,000**  **(ex-VAT)** | **Works Related Services between €50,000 and €221,000 or Works between €200,000 and €5,382,000**  **(ex-VAT)** | **Works Related Services above €221,000 or Works above €€5,382,000**  **(ex-VAT)** |
| **Recommended Process** | Confirm budget in place.  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service.  If yes, avail of same.  If not, consult the CWMF and use its guidance, documents, templates etc. if required.  Define selection and award criteria.  Seek minimum of five written quotations for specific requirement from relevant and competent supplier/service providers.  Evaluate quotation(s) objectively against specified requirements.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Publish Contract Award Information on eTenders for contracts greater than €25,000 (ex-VAT).  Forward contract details to Procurement Unit for Contracts Register if contract is over €5,000.  Ascertain or Seek Procurement Reference.  Raise Purchase Order (details to be included on MS7 Requisition Request Form and QRF form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. | Confirm budget in place.  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service.  If yes, avail of same.  If not, consult the CWMF and use its guidance, documents, templates etc. if required.  Choose tendering procedure.  Get Local Tender Reference Number from Procurement Unit.  Prepare tender documentation.  Advertise on eTenders.  Establish Evaluation Team. Assess & Evaluate Tenders.  Prepare Tender Report for approval.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Create CE Order/CE (delegated) Order. Have it approved.  Award Contract.  Publish Contract Award Notice on eTenders.  Forward contract details to Procurement Unit for Contracts Register.  Seek Procurement Reference from Procurement Unit.  Raise Purchase Order (details to be included on MS7 Requisition Request Form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. | Confirm budget in place.  Establish the need & prepare appropriate specification adhering to Sustainable Public Procurement Principles.  Determine if local, sectoral or national framework in place for the goods or service.  If yes, avail of same.  If not, consult the CWMF and use its guidance, documents, templates etc. if required.  Choose tendering procedure.  Get Local Tender Reference Number from Procurement Unit.  Prepare tender documentation.  Advertise on OJEU via eTenders.  Establish Evaluation Team. Assess & Evaluate Tenders.  Prepare Tender Report for approval.  Seek and gain Contract Approval in accordance with Contract Approval Limits – See Appendix 1.  Create CE Order/CE (delegated) Order. Have it approved.  Award Contract.  Publish Contract Award Notice on OJEU within 30 days of Award.  Complete Article 84 Report.  Forward contract details to Procurement Unit for Contracts Register.  Seek Procurement Reference from Procurement Unit.  Raise Purchase Order (details to be included on MS7 Requisition Request Form)  Manage Contract.  Retain all paperwork and electronic files in accordance with related Information/Data Protection and Retention Legislation/Policies. |

## Appendix 3 - Declaration of Confidentiality and Conflict of Interest

**Re:**

**eTenders Ref: Procedure:**

**Advertised: Closing Date:**

I …………………………………………………………………………………... being a member of an evaluation team for Wicklow County Council, and being in the course of my duties called upon to evaluate tenders and to advise or make recommendations on the selection or identification of successful and unsuccessful bidders, do hereby undertake the following:

I solemnly undertake that I will declare, should it arise, any relationship, filial or otherwise, or any interest, shareholding or possible conflict of interest arising with any service provider, firm, agent, agency, contractor, supplier or other organisation which Wicklow County Council is considering for the award of contracts.

I further undertake to maintain the total confidentiality of all documentation and information received in relation to these procurement processes which comes to my notice against all parties other than the Council and its nominees, and to maintain this confidentiality both now and in the future.

Signed: Witnessed:

Date: Date:

## 

## Appendix 4 – General Checklist for a Public Procurement Process

This checklist should be used as you proceed through the procurement process:

1. [Identifying the need](#Identifyneed)

2. [Writing the specification](#writingspec)

3. [Estimating cost](#estimatingcost)

4. [Determining the best procurement strategy](#procurementstrategy)

5. [Deciding on the tendering procedure that should be followed](#decideprocedure)

6. [Preparing your Call for Tender (CfT)](#prepareRFT)

7. [Allowing sufficient time for submission of tenders](#allowtimeforsubmission)

8. [Issuing clarification without delay](#issuing)

9. [Clarifying tenders](#clarifying)

10. [Evaluating tenders](#evaluating)

11. [Notifying tenderers](#notifying)

12. [Checking tax clearance certificates](#taxclearance)

13. [Awarding the contract](#awarding)

14. [Publishing contract award notice](#publishingCAN)

15. [Managing the contract](#managing)

**1.** **Identifying the need – is the purchase necessary?**

Before starting any procurement process, it is important to establish whether or not it is essential to purchase. Unnecessary purchases should be avoided and sharing resources, reusing and repurposing should always be fully considered. The principles of Sustainable Public Procurement should be adhered to.

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| --- | --- | --- |
| 1.1 | Establish if there is a clear business need for the supply or service. The procurement should be essential for the conduct of normal business or to improve performance. |  |
| 1.2 | Ensure that the business case addresses future phases of the service or purchase of goods that may be required. |  |
| 1.3 | Check if supply/services are already available within Wicklow County Council, or part of a National Procurement Framework. |  |

**2.** **Writing the specification**

Once the need for has been established, the specification of requirements needs to be developed with Sustainable Public Procurement Principles embedded from the outset.

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| 2.1 | Base the specifications on the needs identified in the business case. |  |
| 2.2 | Ensure that the specifications are clear and comprehensive but not discriminatory (use generic technical specification and avoid proprietary brand names). |  |
| 2.3 | Ensure that the specifications present the optimum combination of whole-life-costs and/or price, where appropriate, and quality (or fitness for purpose) to meet your requirements. |  |

**3.** **Estimating cost**

A realistic estimate of all phases of the service or product is essential as this will influence the procurement procedure to be followed and is important for budgeting purposes. For needs of indefinite duration as a rule of thumb use 48 months.

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| --- | --- | --- |
| 3.1 | Prepare a realistic estimate of all phases of the service or product. |  |
| 3.2 | Establish whether funds/budget is available for the purchase |  |
| 3.3 | Determine whether the estimate (exclusive of VAT) is over the relevant EU procurement threshold |  |

**4.** **Determining the best procurement strategy**

Adopt a procurement strategy that will minimise casual or ‘once-off’ purchases and promote best value for money.

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| 4.1 | Check if the organisation already has a draw-down contract or framework agreement in place. |  |
| 4.2 | If such an arrangement does exist but is not being used on this occasion, record the reasons why. |  |

**5.** **Deciding on the tendering procedure that should be followed**

Following an appropriate competitive tendering procedure will avoid breaches of Public Procurement Rules. The type of competitive process to be followed can vary depending on the size and characteristics of the contract to be awarded and the nature of your organisation, (refer to Section [2.10](#_2.10_Choice_of)).

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| 5.1 | Decide an appropriate competitive tendering procedure. |  |
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**6.** **Preparing your Call for Tender (CfT)**

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| --- | --- | --- |
| 6.1 | Ensure that the CfT is clear and comprehensive. Clarity and completeness at this stage will help eliminate the need for clarifications later. |  |
| 6.2 | Set out all the criteria that will be applied in the award process, together with the relative weightings of each. This is a vital part of the process. These criteria will form the basis against which tenders will be comparatively evaluated and are the key to an objective, transparent award procedure. |  |
| 6.3 | Specify any special conditions of tender, FOI clause, required format of tender responses etc. |  |

**7. Allowing sufficient time for submission of tenders**

Allow tenderers an adequate period for the preparation of tender submissions.

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| --- | --- | --- |
| 7.1 | Take account of the complexity of the contract when fixing the timescale for submitting responses. |  |
| 7.2 | Allow tenderers sufficient time for submitting the necessary information and preparing the tenders (taking into account holiday periods etc.). |  |
| 7.3 | In the case of contracts in excess of EU Directive thresholds, ensure that the timescale complies with the minimum periods specified in the Directives. |  |

**8.** **Issuing clarifications without delay**

Responses to requests for information and clarifications must be issued without delay, ensure fairness and in a fashion that protects the confidentiality of all interested parties.

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| --- | --- | --- |
| 8.1 | Issue responses to requests for additional information and clarifications in good time. Delays in issuing clarifications may lead to an extension of the tender closing date. Final dates for requests and issues for clarifications should be noted in the tender documentation. |  |
| 8.2 | Ensure that additional information supplied to one party, in response to a request, is supplied to all interested parties. |  |

**9. Clarifying tenders**

The clarification of information provided in submitted tenders is permitted under limited circumstances.

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| --- | --- | --- |
| 9.1 | Ensure that clarifications regarding information provided in submitted tenders, including clarifications relating to manifest errors, seek only ‘yes’ or ‘no’ replies and that any information provided beyond ‘yes’ or ‘no’ is not considered. |  |

**10.** **Evaluating tenders**

The evaluation and award process must be demonstrably objective and transparent and based solely on the criteria published in the CfT. This is best achieved by the use of a scoring system based on all the relevant weighted criteria, indicating a comparative assessment of tenders under each criterion.

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| --- | --- | --- |
| 10.1 | Arrange for the evaluation of tenders to be carried out by a suitably competent team. |  |
| 10.2 | Evaluate price exclusive of VAT. |  |
|  |  |  |
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**11.** **Notification to tenderers (Standstill Letters)**

Unsuccessful candidates and tenderers for any public contract should be informed of the results of the tendering process without delay. They must be provided with their scores as well as the name and scores of the successful tenderer in the notification. For EU value contracts, the characteristics and relative advantages of the successful tender must also be provided alongside specific relevant feedback relating to the tender submission of the unsuccessful supplier.

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| 11.1 | In the case of contracts covered by the EU Directives, allow a 14 calendar day interval (when notifying electronically) or 16 days (when notifying by post) between notifying unsuccessful tenderers of the outcome of the tendering procedure and the formal award of contract. |  |

**12.** **Checking tax clearance certificates**

Before a contract is placed the supplier or service provider must hold a current Tax Clearance Certificate.

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| --- | --- | --- |
| 12.1 | Ensure that the supplier or service provider is tax cleared by either verification online or by producing an original current Tax Clearance Certificate. |  |

**13.** **Awarding the contract**

The contract should be awarded to the supplier or service provider that is best able to fulfil your requirements, whose bid is within budget and in all other respects complies with the CfT, approval requirements, Public Procurement Law and National Guidelines.

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| --- | --- | --- |
| 13.1 | Record in the contract document(s) all terms and special conditions that apply, including health and safety requirements, insurance etc. |  |
| 13.2 | Ensure that the contract specifies clearly the roles and responsibilities of both the client and the supplier/service provider – what needs to be done, by whom and how much it will cost. |  |
| 13.3 | Details of contract awarded to be forwarded to the Contract Registrar (currently in the Procurement Unit) |  |

**14.** **Publishing a Contract Award Notice**

Contract award information is to be published on [the eTenders procurement website](http://www.etenders.gov.ie), for all procurements over €25,000 (exclusive of VAT). See Section 2.3 of [Circular 05/23](https://www.gov.ie/pdf/?file=https://assets.gov.ie/251378/67a84e3c-fd27-459a-a67b-8cba8845b1cf.pdf#page=null).

|  |  |  |
| --- | --- | --- |
| 14.1 | Create Contract Award Information on [eTenders](https://www.etenders.gov.ie/epps/home.do) and or the OJEU. |  |
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**15.** **Managing the contract**

A contract needs to be effectively managed by the user, not just left to the supplier. Proactive involvement in the management of the contract is essential to maximise Value for Money.

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| 15.1 | Have a programme of checking work/goods against the specification. |  |
| 15.2 | Ensure that there are procedures for identifying inadequacies/poor performance and for remedial action. |  |
| 15.3 | Maintain a record of supplier performance. |  |
| 15.4 | At the conclusion of the contract, review the whole procurement process, not just the supplier’s performance but also the effectiveness of the earlier stages. This review process can provide information for future procurements – in respect of developing and specifying needs, supplier selection and contract management. |  |

## Appendix 5 – CE Order 117/2024

