



Procurement Policy – Cork City Council

Version 4.0
2017

Version Control

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2.0	Updated for Circular 10/10, Remedies Directive	Approved	1 st May 2011	Frank Keane
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4.0	Update for 2016 revised EU Directives, issue of OGP Public Procurement Guidelines July 2017 & new sub threshold national Template docs Nov 2017	Approved	5 th Dec 2017	Frank Keane

Document Approvals

Roles	Name	Signature	Date
Financial Accountant	Frank Keane	<i>Frank Keane</i>	5/12/2017
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TABLE OF CONTENTS

1. Executive Summary.....	4
2. Introduction	7
3. Pre Tendering Phase	9
4. Below Threshold National Guidelines.....	11
5. Above Threshold EU Rules.....	13
6. Procurement Template Documentation	15
7. Monitoring and Reporting.....	17

Cork City Council Procurement Policy

1 Executive Summary

Cork City Council’s procurement policy is to undertake all procurement in a manner that is consistent with and in adherence to European Directives, national legislation, policy and guidelines. Specifically this means compliance with the following:

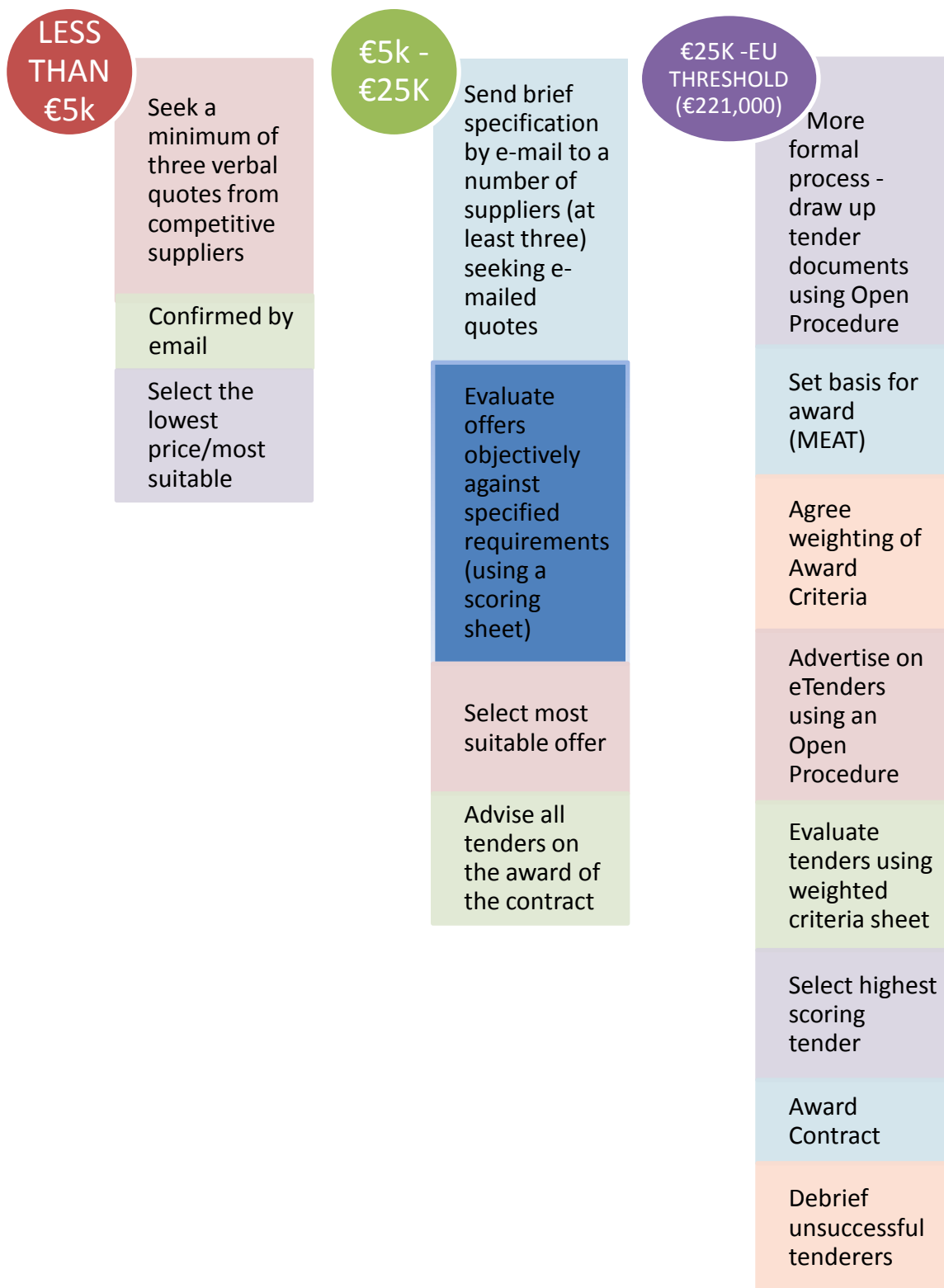
- EU Directives:
 - **Public Procurement:** Directive 2014/24/EU on public procurement
 - **Utilities:** Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors, and
 - **Concessions:** Directive 2014/23/EU on the award of Concession Contracts
- National Legislation: Statutory Instruments giving effect to the above Directives
- Capital Works Management Framework: Dept of Finance Circular 06/10 For Works and Works Related Services
- Public Procurement Guidelines For Goods And Services: Office of Government Procurement July 2017
- Circular 16/13: Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service

The estimated value of the procurement is what determines which of these apply.

Order and/or contract value	Procurement Rules
Goods & Services <ul style="list-style-type: none"> - Less than €5,000; - €5,000 to €25,000 - €25,000 to EU Threshold (€221,000) 	Public Procurement Guidelines For Goods And Services: Office of Government Procurement July 2017 http://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services/
Works & Works Related Services <ul style="list-style-type: none"> - Less than €5,000 - €5,000 to €50,000 - €50,000 to EU Threshold (€5,548,000) 	Capital Works Management Framework: Dept of Finance Circular 06/10 For Works and Works Related Services & Circular 10/14
EU Threshold Values apply: <u>Supplies & Services</u> Above €221,000 <u>Public Works Contract</u> Above €5,548,000	Directive 2014/24/EU on public procurement

In addition this policy sets out internal Cork City Council procurement processes which must be followed in relation to receipt of tenders, pre procurement approval and annual planning and reporting.

Summary of Sub-Threshold Procurement Steps for Goods and Services



Summary of Sub-Threshold Procurement Steps for Works and Works Related Services

For contracts for projects below €50,000, five firms should be invited to tender based on the Capital Works Management Framework Guidance Note 2.3 Section 3.2 <http://constructionprocurement.gov.ie/guidance-notes/>. The five tenders should be received in writing and the lowest price most suitable selected. Under Circular 10/10 contracts over €50,000 should be advertised on eTenders. It is required that for such contracts under €250,000 the open procedure should be used. For contracts that are over this level the restricted procedure can be used as appropriate up to the EU threshold, currently at €5.548m.

Use of Standardised Procurement Documentation

There now exists standardised procurement documentation suitable for all thresholds of tender procedures, summarized as follows:

Type of Procurement	Access to Templates & Guidance on use	Issued by
Below EU Threshold goods and services	http://i-apps/ProcurementPortal/templatedocuments/	LGMA – for LG sector only
Above EU threshold goods and services	http://i-apps/ProcurementPortal/templatedocuments/	OGP – all public sector
Works & construction related services	http://constructionprocurement.gov.ie/	Government Contracts Committee for Construction (GCCC)

It is Cork City Council's policy to use the above template documentation where the nature and complexity of the Council's requirements can be met. For all routine goods and services it is anticipated that these templates will be sufficient. Use of this documentation is mandatory for all quotations as the quotation process is only suitable for straightforward procurements

A summary listing of all the documentation available is set out in Appendix 2

2 Introduction

The purpose of this policy is to ensure that procurement throughout Cork City Council is consistent with European and National legislation, policy and guidelines. There is an onus on public bodies to ensure that the public procurement function is discharged honestly, fairly and in a manner that secures best value for money.

Procurement in Cork City Council is largely a devolved function, where individual departments are responsible for ensuring their sourcing requirements are met while operating to best procurement practice and compliance with relevant legislative, regulatory and policy requirements.

The Procurement Unit is based in the Finance Department and the role of the Unit is to provide co-ordination, support and oversight in respect of procurement activities across the organisation.

All staff engaged in any part of the procurement process should ensure that they adhere to this Policy.

Definitions

There is a comprehensive list of definitions set out in the Glossary on page 77 of the OGP Public Procurement Guidelines for Goods and Services. <http://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services/>

Public Procurement Principles

The Treaty of Rome on the functioning of the EU applies to all 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 publicly.

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 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.

Urgency

Accelerated time limits are permitted where the requirement is 'urgent' "Where a state of urgency duly substantiated by the contracting authorities renders impracticable the

[normal] time limit...”

Note that the Regulation makes it clear that the urgency must be brought about by events unforeseeable by and circumstances not attributable to the authority

DPER Circular 10/14: Initiatives to assist SME's in Public Procurement

Cork City Council is committed to helping prospective suppliers to understand the Council's procurement and purchasing processes. In this respect, guidance by DPER Cir 10/14 in its procurement activities must be consulted prior to undertaking procurement activities. The Circular is aimed at structuring competitive processes for public contracts in a manner that facilitates increased participation by SMEs (small and medium enterprises), while continuing to ensure that public sector purchasing is carried out in a manner that is legal, transparent, and secures optimal value for money.

To promote SME participation contract opportunities must be advertised and Contract Award Notices published for all contracts valued above €25k. The full circular is available at: [Circular 10/2014 Initiatives to Assist SMEs in Public Procurement 2014](#)

3 Pre Tendering Phase

Identify Need

A clear business need for the good or service must be established by the prior to initiating the procurement. The procurement should be essential for the conduct of normal business or to improve performance. Stating that the need for the procurement 'is a good idea' is not a sufficient business case. Future phases of the service or purchase of goods that may be required should be addressed in the business case. Part B of The Public Spending Code provides guidance on the Appraisal and Planning Stages of public projects before expenditure is incurred.

Budget Approval

The budget holder should establish whether funds are available to meet the purchase, and ensure that all necessary budgetary approvals are in place in adequate time.

Specification

The person responsible for carrying out the procurement should base their specifications on the needs identified in the business case and ensure that the specifications are clear and comprehensive and not discriminatory. In particular, specifications should use generic technical specifications and avoid proprietary brand names.

Internal Approval Requirements

Before undertaking any procurement, the Procurement Unit should be contacted to establish if there are any existing or planned national procurement arrangements which may meet your needs.

As part of the planning phase of a procurement competition to be advertised on e-tenders, a Pre Procurement Approval Request Form set out in Appendix 1 must be completed in full, signed and submitted electronically to the Procurement Unit. Each section is expandable and forms should be typed, with signed scanned copies being e-mailed to the Procurement Unit: procurementcorkcity@corkcity.ie

Sufficient time should be allowed in planning each procedure to allow for approval to be received. A decision will be made by the Procurement Unit once all the necessary information is received and communicated back to the signee.

In the case of genuine emergencies, short term contractual needs can be met without pre approval however the Pre Procurement Approval Request Form must be completed at the earliest opportunity and the action taken justified. Emergencies must be as a result of factors outside the control of the Council and do not include situations arising due to inaction.

When planning procurement procedures it is not just the immediate need that should be considered but future requirements. Casual or 'once-off' purchases should be minimised by designing tenders to allow for potential future requirements where possible which will reduce procurement administration and obtain improved value for money

In cases where the planned procurement approach does not comply with the Council's Procurement Policy then a detailed justification for not applying the policy must be provided.

Collaborative Procurement

It is the policy of Cork City Council to consider and use collaborative opportunities during the procurement process whenever available. It is recognised that collaborative procurement can yield financial savings, improved compliance and reduced administration. Cork City Council will work with the Office of Government Procurement (OGP), the Local Government Operational Procurement Centre (LGOPC) and other public bodies to achieve the benefits of collaborative procurement in accordance with national policy, DPER Circular 16/13.

When internal procurement contracts are under consideration for renewal, national contracts / frameworks will be required to be examined accordingly, the use and compliance with the frameworks is mandatory unless there is a compliant, value for money reason, why not using them can be demonstrated. When new frameworks are made available by the OGP and advised to Directorates by the Procurement Unit, a response is required to confirm that framework will be utilized or if not the reasons must be provided in writing.

Full lists of the Frameworks are available on the OGP Webpage: www.procurement.ie.

SupplyGov.ie

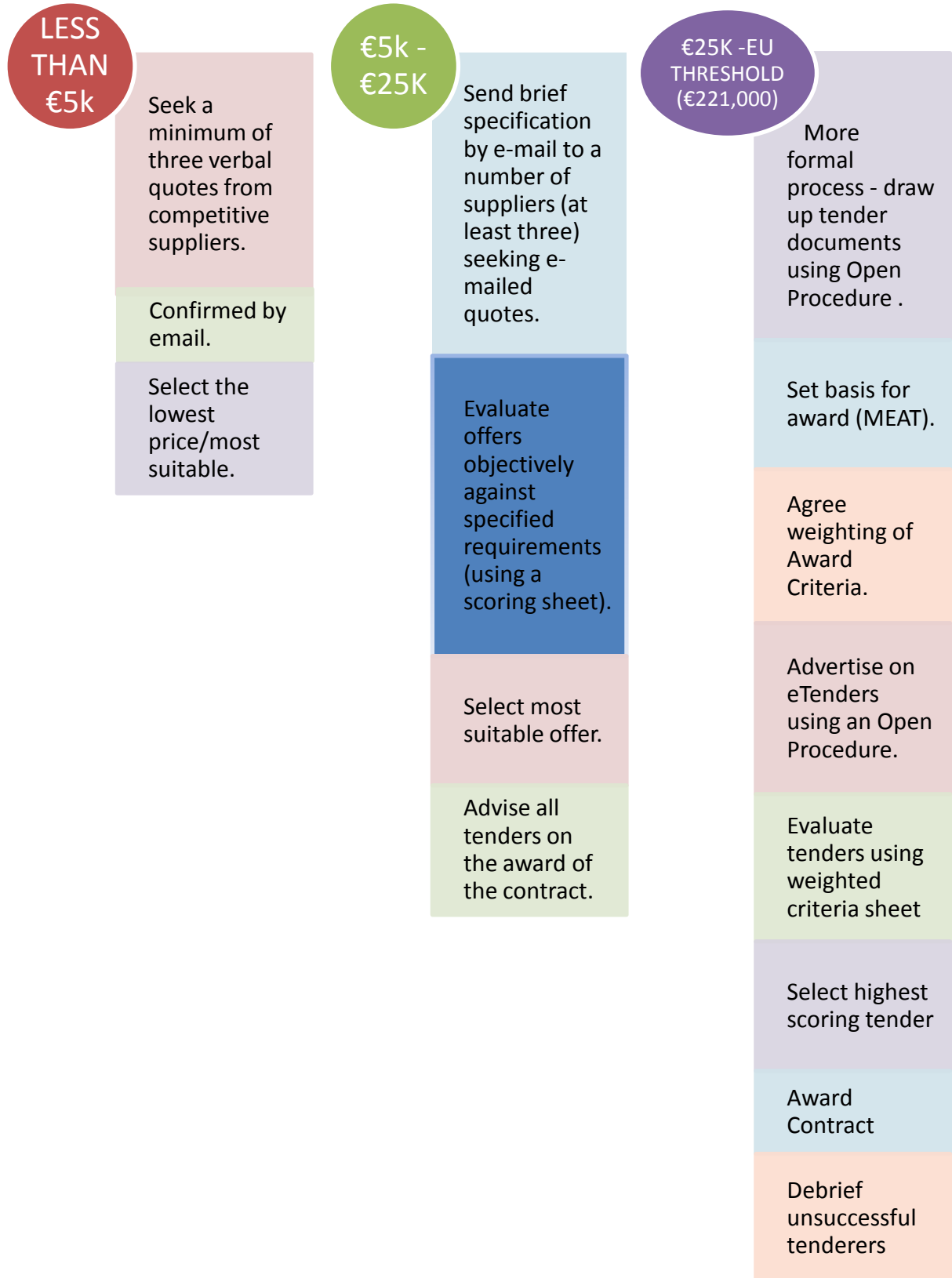
SupplyGov.ie is a procurement system which facilitates Local Authorities and other state agencies in procuring goods and services from Suppliers and Contractors. The website has been developed by the Local Government Operational Procurement Centre (LGOPC) to streamline the procurement process of contracting authorities in respect of the operation of local authority led Category Councils for Plant Hire and Minor Building & Civil Works.

SupplyGov.ie operates two modules of procuring goods and services through Requests for Tenders (RFTs) and Requests for Quotations (RFQs). Requests for Tenders are mini competitions run under Frameworks. Insert link

4 Below Threshold National Guidelines

Overview

The Procurement Policy is to adopt the Public Procurement Guidelines for Goods and Services as issued by the OGP for all below threshold requirements. This document sets out the following requirements for under threshold procurements as follows;



Summary of Sub-Threshold Procurement Steps for Works and Works Related Services

For contracts for projects below €50,000, five firms should be invited to tender based on the Capital Works Management Framework Guidance Note 2.3 Section 3.2 <http://constructionprocurement.gov.ie/guidance-notes/>. The five tenders should be received in writing and the lowest price most suitable selected. Under Circular 10/10 contracts over €50,000 should be advertised on eTenders. It is required that for such contracts under €250,000 the open procedure should be used. For contracts that are over this level the restricted procedure can be used as appropriate up to the EU threshold, currently at €5.548m.

eTenders

It is Cork City Council's policy that all contracts for goods and services with an estimated value of more than €25,000 should be advertised on eTenders. The Procurement Unit will assist those placing advertisements on eTenders.

The eTenders procurement website (www.eTenders.gov.ie) has been developed as part of the Irish Government's Strategy for the Implementation of eProcurement in the Irish Public Sector. The site is designed to be a central repository for all public sector contracting authorities to advertise procurement opportunities and award notices. The website also provides functionality during the different stages of the procurement process.

Time Limits

There are no prescribed time limits in relation to below threshold procedures. However, sufficient time must be permitted for preparation and submission of tenders to allow for genuine competition and SMEs to participate in the tender process. As a general rule it is recommended that a minimum of 21 days be allowed for receipt of tenders where a more formal tendering process is used.

Query and Clarifications

All queries and clarification made by the tenderer should only be made through eTenders. Replies to all these should be broadcast through eTenders.

Opening Procedure

It is Cork City Council's policy all tender replies should be submitted on eTenders via the Tender Post Box facility. When defining opening committee on eTenders, it is best practice to select at least 3 people as a minimum of 2 is needed to open tender box.

Evaluation

Where formal tenders have been requested in a below threshold competition, transparency and objectivity is achieved by the use of weighted criteria, including price, which allows a comparative assessment of tenders under each criterion. All tenderers should be informed of the result of a tendering process without delay. Standard template responses are provided as part of the national template procurement document and these should be used. Blank templates are available at <http://i-apps/ProcurementPortal/templatedocuments/>

5 Above Threshold EU Rules

Introduction

Detailed guidance is provided on above threshold EU rules are included in Public Procurement Guidelines For Goods And Services are covered in the section entitled *Tendering Phase Above Threshold – EU Rule*, beginning on page 37.

Contact Office of Government Procurement

Before undertaking any procurement Cork City Council should contact the Office of Government Procurement to see if there are any existing or planned procurement arrangements which may meet their needs. The OGP is also available to provide procedural advice and administrative assistance with any procurement process.

General Regime

The procurement of all goods and most services contracts require the full application of the public procurement rules in the 2016 Regulations. It is a legal requirement that contracts with estimated values equal to or above the EU thresholds must be advertised in the OJEU (which may be accessed via **eTenders**) and awarded in accordance with the provisions of the 2016 Regulations. Any infringement of the terms of the Regulations can have serious legal and financial consequences for Cork City Council.

The 2016 Regulations also introduced a simplified award regime (a “light-touch” regime) for certain services, notably health, social, educational and cultural services, to take into account the specific nature of these services. The Public Procurement Guidelines issued by the OGP details the rules in relation to the Light Touch Regime in Appendix IV.

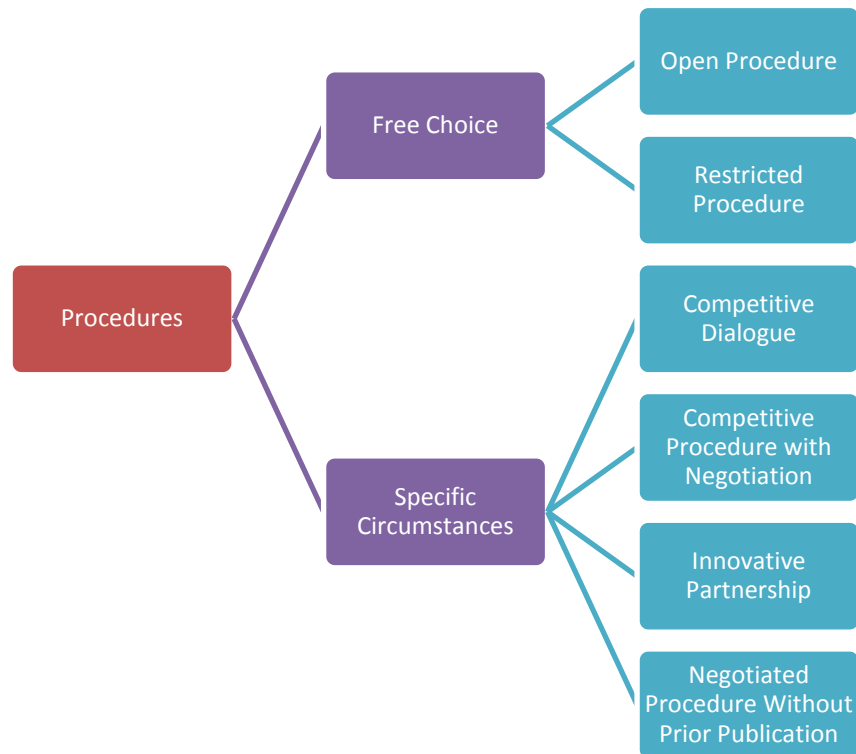
Overview of the Types of Procedure

The most commonly used procedure is the Open Procedure. The advantage of the Open Procedure is that it invites an unlimited amount of offers and, therefore, unlimited competition (unlike other procedures there is no maximum number of participants). Its main disadvantage to contracting authorities is the potential administrative burden of having to examine a large number of tender documents. Accordingly, this procedure may not be appropriate for complex procurements.

The Restricted Procedure tends to be used where there is a need to pre-qualify suppliers where there is evidence that the number of potential suppliers is very large or where a contracting authority wants to limit the number of people who will have access to certain confidential and/or sensitive information. The procedure can be used to reduce the number of candidates (and the paperwork) to be examined by the contracting authority. The disadvantage of the procedure is that it takes longer and is sometimes more complicated to run.

A more detailed description of each the six procedures and the procurement rules in the 2016 Regulations is set out in Public Procurement Guidelines for Goods and Services on the Procurement Portal <http://i-apps/ProcurementPortal/index.html>

A Summary of the Types of Procedure



Remedies Directive 2007/66/EC

Under this Directive Cork City Council must inform all tenderers of the outcome of a tender procedure using a “standstill letter” for above threshold procurements. Issuing this letter triggers the standstill period which must run for 14 days (16 days if not issued electronically) from the day after its issue. During the standstill period a contract cannot be concluded.

A compliant standstill letter must include the following information:

- the Award Criteria
- the name of the successful tenderer
- the score of the recipient
- the score of the successful tenderer
- details of the reason for the decision, including the characteristics and relative advantages of the successful tender in the form of reference to specific matters
- confirmation of the date before which the contracting authority will not enter into the contract or Framework Agreement (i.e., the date after the end of the standstill period)

Model Letters for use in relation to above EU threshold Open Competitions are set out in Appendix VI of the guidelines

Post Award

Details of contracts awarded on foot of procurement competitions which fall within the scope of this policy must be provided to the Procurement Unit. The information which will form the basis of a corporate contract register should include the name of the successful tenderer and the beginning and expiry dates of all contracts including details of any extensions required.

This information should be provided to the Unit as soon as the contract is entered into by completing Part 2 Section E of the Pre Approval Form. It should be noted that all contracts advertised on e-tenders require a Contract Award Notice. This is the responsibility of the person running the tender competition one-tenders.

6 Procurement Template Documentation

Use of Standardised Procurement Documentation

There now exists standardised procurement documentation suitable for all thresholds of tender procedures, summarised as follows:

Type of Procurement	Access to Templates & Guidance on use	Issued by
Below EU Threshold goods and services	http://i- apps/ProcurementPortal/templatedocuments/	LGMA – for LG sector only
Above EU threshold goods and services	http://i- apps/ProcurementPortal/templatedocuments/	OGP – all public sector
Works & construction related services	http://constructionprocurement.gov.ie/	Government Contracts Committee for Construction (GCCC)

It is Cork City Council's policy to use the above template documentation where the nature and complexity of the Council's requirements can be met. For all routine goods and services it is anticipated that these templates will be sufficient. Use of this documentation is mandatory for all quotations as the quotation process is only suitable for straightforward procurements

Below EU Threshold goods and services

The template documentation covers quotations, RFTs for contracts and framework agreements together with guidance documents for each of these. . Sub-threshold procurement runs from €1 - €221,000, and there is a subsequent range of complexity that can apply to procurement at this level. For this reason, a template contract and template terms and conditions have not been developed. However, a sample agreement and sample terms and conditions are included for supplies and services and these should be adapted to the needs of each individual procurement / contract. For more complex below threshold contracts legal advice should be sought. A summary listing of all the documentation available is set out in Appendix 2

Feedback from SMEs and micro-businesses indicates that small SMEs are not engaging in the public procurement process due to the complexity of tender documents and concerns have been raised regarding the consistency of templates used across local authorities ranging from very simple Request for Tender documentation to highly complex documents.

Therefore these sub sub-threshold procurement documents shall be used in an effort to support SMEs and micro-businesses and provide consistency in procurement across the sector. Cork City Council will make guidance documents available on the Procurement page of its website as these documents will form the basis of SME training by InterTradelreland and LEOs.

Above EU Threshold Goods and Services

Above EU threshold procurement involves significantly higher risk than below threshold. In an effort to mitigate this risk the Office of Government Procurement in conjunction with the Chief State Solicitors office has drafted a suite of documents including Request of Tender and Contract documents. In order to reduce the risk of running a procurement competition these template documents must be used where appropriate to the nature and complexity of the requirement being tendered.

Notification

Sample letters for awarding below threshold contracts and notifying unsuccessful tenders can be found on the procurement portal:

<http://i-apps/ProcurementPortal/templatedocuments/>

7 Monitoring and Reporting

Annual Procurement Planning

Each Directorate / Department will produce an Annual Procurement Plan which should at a minimum set out the action which will be taken to procure new requirements, contracts which expire during the year and any other recurring purchases which are not compliant. The template as provided for by the Procurement Unit should be utilized for this purpose.

The current OGP or local government pipeline of planned procurement should be used as an input in the planning process. These Plans should be submitted to the Procurement Unit prior to the beginning of each year to enable a Corporate Annual Procurement Plan be prepared.

Quarterly Procurement Reports which include details of progress against objectives set out in the Annual Procurement Plans are to be submitted to the Procurement Unit at the end of each quarter. Based on the quarterly reports, a written report will be provided to the Senior Management Team (SMT) in advance of quarterly meetings.

Related Party Disclosures

All employees involved in procurement activity must act in accordance with the ethical framework contained in the Local Government Act 2001 and the Code of Conduct for Employees. Members of a tender evaluation team should sign a Declaration of Confidentiality and a Conflict of Interest form prior to the tender evaluation process commencing. Employees must disclose any beneficial interest that they or a connected person has in relation to procurement decisions conducted by the employee on behalf of the Council.

Accessible to persons with disabilities

Section 27 (part 3) of the Disability Act 2005 states that "where a service is provided to a public body, the head of the body shall ensure that the service is accessible to persons with disabilities". This includes services and goods. Cork City Council's policy is to include the relevant accessibility requirements for people with disabilities in all stages of the tender process.

Freedom of Information

FOI applies to Cork City Council. Information may be requested on records relating to a tendering procedure under the Freedom of Information Act 2014. Some records may be exempt under the provisions of the Act on grounds of confidentiality or commercial sensitivity. The Freedom of Information Officer should be consulted where any issue arises.

Appendix 1



Procurement Approval Procedure

Pre Procurement Approval Form Part 1

Section A - General Details	
Name of Contract:	
Directorate/Dept:	
Business Unit(s):	
Person Responsible for Procurement Process:	
Contract Manager:	
OGP Category Description:	

Section B - Short Description of the Goods / Services / Works to be Procured:	
Estimated Value (this includes any extensions or possible extensions): € _____	VAT Rate: _____%

Section C – Please outline the Planned Procurement approach

Advertised on e-tenders? If no please explain

Which procedure is planned?
Open / Restricted / Other

Is it proposed to put in place a Contract or a Framework Agreement? Please specify why?

Can the contract requirements be met by an existing Cork City Council contract, a sectoral or national contract put in place by Kerry County Council/Office of Government Procurement?

If available, provide the list of potential suppliers that may bid on this procurement. If not, what level of response are you expecting to your tender invitation?

Section D – Proposed Timeframes

Target Date to Advertise Tender

Target Closing Date for Submissions:

Target Award of Award:

Section E – Tender Reference

Tender Reference No:

(This reference will be assigned by the Procurement Section and must be used when publishing on e-tenders)

Section F - Approvals

Role	Print Name	Signature:	Date
Prepared by person carrying out Procurement:			:
Approved by Cost Code Holder ¹			
Approved by Procurement Unit ²			

Part 2: Post Procurement – Contract Details

Section E - Contract Details (on completion of procurement process)

Summary of Procurement Decision:	
Contracted Supplier Name and Full Address:	
Contracted Supplier Vat Number:	
Contract Award Date:	
Commencement Date of Contract:	
Expiry Date of Contract: (including details of options to extend)	
Type of Contract (Works/Supplies/Services)	
Single Contract or Framework	
Value of Contract (ex vat)	

¹ The Cost Code Holder is confirming that the estimate in Section 2 is covered by an Available Revenue Budget/Capital Allocation

² Send to procurementcorkcity@corkcity.ie

Appendix 2

Template Documents for Sub-Threshold Procurement in the Local Government Sector

The suite of template documents are:-

1. Quotations

- 1A Request for Quotation (RFQ) for Services.
- 1B Quotation Response Document for Services.
- 1C Request for Quotation (RFQ) for Supplies.
- 1D Quotation Request Document for Supplies.

2. Contracts

- 2A Request for Tender (RFT) for Contracts – Open Procedure.
- 2B Guidance for staff of Contracting Authorities (buyers) on completing a RFT for Contracts.
- 2C Sample Services Contract and Sample Terms and Conditions.
- 2D Sample Supplies Contract and Sample Terms and Conditions.

3. Single Party Frameworks

- 3A Request for Tender (RFT) for Single Party Framework – Open Procedure.
- 3B Single Party Framework Agreement and Terms & Conditions.
- 3C Guidance for staff of Contracting Authorities (buyers) on completing a RFT for a Single Party Framework – Open Procedure.

4. Multi-Operator Frameworks

- 4A Request for Tender (RFT) for Multi-Operator Framework.
- 4B Multi-Operator Framework Agreement and Terms & Conditions.
- 4C Guidance for staff of Contracting Authorities (buyers) on completing a RFT for a Multi-Operator Framework.

5. Tender Response Documents

- 5A Tender response document for Services
- 5B Tender response document for Supplies

6. Guidance Documents

- 6A Guidance for Suppliers on registering on www.etenders.gov.ie.
- 6B Guidance for Suppliers responding to Tenders via www.etenders.gov.ie
- 6C Guidance for Suppliers on using www.supplygov.ie.

7. Insurance Guidance

- 7A Guidance from IPB Insurances Ltd. outlining appropriate insurance requirements.