



PROCUREMENT POLICIES & PROCEDURES

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Preface

This document articulates Louth County Council Procurement Policy and Procedures which must be followed by all employees.

The primary objectives of Louth County Council Procurement Policy and Procedures are to ensure that all transactions:-

- Give the local authority best value for money
- Utilise the significant purchasing power
- Are transparent
- Ensure equality of access to qualified suppliers
- Comply with Government Guidelines, applicable EU procurement legislation (“EU Procurement Directives”) and all other applicable laws.

Competitive tendering should be the normal procedure in the procurement process of State bodies. Louth County Council will ensure that proper procurement is implemented including compliance with EU Procurement Directives (where relevant) and national guidelines.

It is important to ensure a strong focus on the role and expertise of the procurement function and that purchasing personnel are fully conversant with all applicable public procurement rules and developments in this area.

Louth County Council will also fulfil its obligations under the ‘Public Procurement Guidelines, 2004’ as published by the Department of Finance to ensure that the procurement function is operating to the requisite standard. Confirmations as to compliance is therefore required from various individuals and sections within Louth County Council so that the Chief Executive can ultimately confirm compliance through the audit process on an annual basis.

The development of the NPPOU (National Public Procurement Operations Unit) as part of the OPW structure provides an even greater opportunity for Louth County Council to maximise savings and where these arise Louth County Council will participate in same.

The policies and procedures articulated are designed to ensure that Louth County Council meets best practices and complies with all laws and other requirements.

Section 1

PROCUREMENT POLICIES

1. CORE VALUES

All purchasing of supplies, works and services in Louth County Council is governed by the following core values:-

- Achieving best value for money in terms of overall lifecycle costs.
- Dealing with quality suppliers, contractors and service providers.
- Ensuring equality of opportunity in the marketplace.
- Properly managing both commercial and safety risk.
- Complying with all applicable EU Procurement Law, domestic legislation and government regulations.

It is the policy of Louth County Council to maintain its high reputation for ethical behaviour and fair dealing with the conduct of its business.

The Code of Conduct for employees' in the Local Government Sector aspires to ensure the highest of standards.

2. PROCUREMENT PROCESS

In order to achieve best value for the organisation, a Procurement Section has been established to co-ordinate all activities. An Annual Procurement Plan will be prepared to manage this process. All purchasers will advise the Procurement Section by November 30th each year of its procurement needs for the following year. Sections will have regard for rationalising needs to avoid unnecessary expenditure.

The functions of the Procurement Section are listed in Procedure H.

As part of this process and indeed to promote compliance and best practice, Tender File Management should be, as per requirements in Procedure G.

An up to date folder of template letters and formats will be maintained on the Intranet within the Procurement Folder

3. PURCHASING PRINCIPLES AND PROCEDURES

The procurement of supplies, services or works within Louth County Council must follow the principles, policies and procedures referred to in this document.

a. Principles and Procedures

The tender procedure employed must ensure adequate respect for the principles set out below.

- **Value for money**
This can be attained by ensuring:-
 - The quality of goods/services/works procured.
 - The service requirements are met in terms of delivery, technical support and lifetime support.
 - Competitive prices, founded on fair and open competition, taking into account full life cycle costs for the particular produce or service.

- **Transparency**
This can be ensured by advertising the contract in advance on eTenders, on the government website, in specialist journals or the Official Journal of the European Union (“OJEU”) as appropriate and in compliance with EU Procurement Directives. The notice must contain all the information necessary to enable potential contractors to decide whether they are interested in participating e.g. brief summary of contract requirements and selection criteria.

- **Equality of treatment (non-discrimination)**
All potential contractors should know the rules in advance and the rules should be applied to every contractor in the same way.
The Department of Finance Circular 10/10 published in September 2010, attempts to assist Small to Medium Irish Companies by minimising administrative costs in preparing for calls for competition. It encourages the use of the Open process for below EU threshold competitions. Circular 10/14 replaces the existing Circular 10/10 and is intended to strengthen and update the measures contained in Circular 10/10.

- **Proportionality**
Any measure chosen should be both necessary and appropriate in light of the objectives.

- **Mutual Recognition**
Products and services supplied by contractors in different EU Member States should be accepted if the products and services meet the legitimate objectives. Contracts should specify a common technical specification implementing an EU standard or EU technical approval where possible.

- **Contract Valuation**

In general, the value of the contract will determine the procurement procedure selected. **All values relating to purchasing authority/threshold levels are exclusive of VAT¹.** Appendix 10 of Louth County Council Procurement Procedures provides guidance on contract valuation.

When the potential value of a contract exceeds the thresholds stipulated in the EU Procurement Directives, then the contract must be treated as directed in Procedure A of Louth County Council Purchasing Procedures.

In all other cases contracts are considered national and must be advertised on the Irish Government website, in order to ensure adequate competition.

All purchases must be routed through the Agresso/FMS system.

All purchasing in Louth County Council must be carried out using one of the following procedures:-

- Formal tender
- Request for quotation
- Low Value Purchase Card

b. Formal Tender

The formal tender procedure requires suppliers or contractors to submit sealed tenders by a given closing date. Tenders are subsequently opened as outlined in 1.9 Receipt and opening of tenders.

This procedure must be used for all contracts with an estimated value greater than €25,000 excluding VAT for supplies and services and €50,000 excluding VAT for works contracts. There are special rules on tenders for contracts which fall within the scope of the EU Procurement Directives.

c. Request for quotation

The request for quotation procedure permits suppliers and contractors to submit quotations by letter, fax or email. This procedure may be used for contracts with an estimated value, excluding VAT, of up to €25,000. Between €5,000 and €25,000 three quotes must be obtained whereas in the case less than €5,000 a single quote will suffice.

d. Low Value Purchase Cards

Procurement cards may be used where authorised.

e. Contract value

When determining which procedure to use, the maximum possible value of a contract must be taken into account. Under no circumstances may a contract be artificially split in order to change the purchasing procedure to be used. Details on

determining contract values are set out in Appendix 9 of Louth County Council Procurement Procedures.

f. Procurement Procedures & Related Documentation

Louth County Council Procurement Policies and Procedures shall apply to all purchases in Louth County Council. The Procurement Procedures include procedures dealing with the following areas:-

- Formal Tender Procedure
- Request for Quotation
- Low Value Purchase Cards
- Capital Expenditure
- Debriefing Suppliers
- Disposal of Assets
- Maintenance of Documents
- Procurement Section Role

4. ROLES AND RESPONSIBILITIES

- 4.1 Each Director of Services has overall responsibility for their own budget area, compliance with the procurement policies and procedures. Further, they are obliged to monitor compliance on their procurement activities. There is a collective responsibility to aggregate all procurement to achieve best value
- 4.2 The Senior Executive Officers, are responsible for, implementing and monitoring approved procurement policy. This includes responsibility for ensuring:-
- Best value for money in terms of overall lifecycle cost.
 - Louth County Council' purchasing policy and procedures comply with all applicable laws including EU Procurement Directives and Irish law and Government Guidelines where applicable.
 - The procedures are applied with due regard for the principles of transparency, equality of treatment, proportionality and mutual recognition.
 - Quality and safety are not compromised.

The Project Owners must immediately report to their Director of Services any relevant issue, which gives cause for concern.

The Procurement Section, should be consulted on any matter relating to the interpretation of Louth County Council Procurement Policy and Procedures. Responsibility for any particular purchase within Louth County Council will rest with the Senior Executive Officer best placed to meet that purchasing need.

The Senior Executive Officers will agree individual areas of responsibility for items common to more than one function to ensure the best value for money is obtained. The Director of Corporate Services will chair a Procurement Management Committee (see Section 4.5 below) that will assign responsibility for any particular purchase where any uncertainty arises.

The Senior Executive Officers before November 30th each year will notify the Procurement Section of the tender needs for the following year to ensure best value can be achieved from Aggregation.

The Director of Corporate Services may, following consultation with Management Team, reassign procurement responsibilities.

4.3 Department Heads

The Senior Executive Officers, as budget holders and initiators of purchasing requirements, are responsible for ensuring that:-

- The Procurement Policy and Procedure as set in this document are complied with and that reports are made to the appropriate staff on any instances of non-compliance or difficulties with compliance.
- Their staffs are briefed on, and comply with, the requirements of the Procurement Policy and Procedures.
- All purchases are covered by an approved budget.
- The Senior is notified in good time of all purchasing requirements including the cost code.
- All requests to purchase are submitted using the Purchase Order function of the Agresso system.
- No commitment is made to any supplier without the agreement of the Senior.
- Procedures relating to purchasing within their own area (e.g. Low Value Purchasing Cards) are complied with.
- All relevant transactions are processed in a timely fashion on Agresso/FMS.
- Technical specifications or scopes of work are prepared which are fit for purpose and comply with EU rules.
- Technical evaluations of tenders and quotations or approval of the technical recommendation are made when the evaluation is carried out by a third party.
- Long term contracts are managed once awarded.
- Documentation is prepared in a timely fashion to enable the Law Agent prepare appropriate Conditions of Tender and Conditions of Contract, where necessary.

4.5 Procurement Management Committee

The Procurement Committee is comprised of the Directors of Services and Head of Finance.

The Procurement Management Committee shall meet half yearly and, in addition to the duties listed below, acts as a forum for discussion between the various procurement functions throughout Louth County Council on procurement matters including practical difficulties arising out of the operation of Louth County Council procurement policies and procedures and any practical difficulties arising out of Louth County Council compliance with the Government's procurement guidelines and EU Procurement Directives.

The Procurement Management Committee has responsibility for:-

- Reviewing the operation of Louth County Council procurement policies and procedures and making recommendations on required amendments or revision.
- Consideration of the quarterly reports on compliance in the procurement area prepared by the Directors of Service of each of the Directorates.

- Assisting in preparing the annual reports on compliance to the Department.
- Assigning procurement responsibility for any particular purchase common to two or more operating functions.
- Ensuring the registers of those with authority to approve contract awards, sign orders or formal contracts, and settle contract disputes along with their approved nominated delegates are kept up to date.
- Dealing with any cross authority procurement issues that require attention.

4.6 Procurement Section

The Procurement Section will;

- Collate details and prepare an Annual Procurement Plan.
- Place all notices in relation to Competitions.
- Endorse all Procurement Processes.
- Ensure the maintenance of all competition files.
- Fulfil the roles and responsibilities listed in Procedure H.

5. THRESHOLDS FOR CONTRACTS

The thresholds to be applied to procurement contracts are as laid down in the National Guidelines and by the European commission. It is recommended to work on the basis of 10-20% less than the official EU values.

Please note that Circular 10/14 replaces the existing Circular 10/10, which attempted to assist Small to Medium Irish Companies by minimising administrative costs in preparing for calls for competition. Circular 10/14 is intended to strengthen and update the measures contained in Circular 10/10.

Details of some of the changes:

- There is a new requirement for public bodies to publish contract award notices for contracts valued over €25,000 on eTenders with effect from 1 August 2014.
- Open procedure to be utilised for goods and services contracts below the value of €134,000 (excl. VAT). For goods and services contracts between €134,000 and €209,000 you have the choice of deciding on the procedure – open or restricted.
- Minimum financial turnover requirement not to exceed twice the estimated contract value for routine goods and services contracts.
- Contracting authorities are strongly encouraged to provide written feedback to unsuccessful bidders for contracts below EU value threshold.

Note: the thresholds are exclusive of VAT

5.1 National Thresholds

Table 1

Supplies and Services	
Value	Process
Less than €5,000	Verbal quotation(s) from one or more known suppliers Recommended that verbal quotes be verified in writing by fax or email
Contracts between €5,000 and €25,000	At least 3 written quotations requested from known suppliers: Received or Refusals
Contracts between €25,000 and €209,000	Must use formal tendering via national advertising Using: www.etenders.gov.ie Must use OPEN Procedure for contracts below €134,000. <i>Choice of Open or Restricted Procedure for contracts between €134,000 and €209,000</i>

Table 2

WORKS	
Value	Process
Less than €5,000	Verbal quotation(s) from one or more known economic operator Recommended that verbal quotes be verified in writing by fax or email.
Contracts between €5,000 and €50,000	At least 5 written quotations requested from known suppliers.
Contracts between €50,000 and €250,000	Must use formal tendering via national advertising Using: www.etenders.gov.ie Must use OPEN Procedure
Contracts between €250,000 and EU	Must use formal tendering via eTenders – choice of procedures
Contracts above EU thresholds €5,225,000	Must use formal tendering via eTenders – with notice being sent to OJEU – choice of procedures

5.2 European Thresholds

Depending on the type of purchase there are various thresholds to be considered. The thresholds are effective from 1 January 2014.

Table 3

EU Thresholds	
Services	€209,000
Supplies	€209,000
Works	€5,225,000

6. TYPES OF PURCHASES

Before commencing the procurement process, it is important to define the type of contract you are dealing with.

6.1 Supplies

A supply contract is:

- In writing for pecuniary interest
- Between a contracting authority/entity and an economic operator/supplier
- For purchase, lease, rental, hire purchase of products
- May include siting and installation operations
- Divisions 03-44 and 48 (software) of the CPV of EU Directive
- The full rigours of the Directives apply to all Supplies Purchases.

6.2 Services

A Service Contract is:

- In writing for pecuniary interest
- Priority & Non Priority Services – defined in the Directives and CPC nomenclature
- Divisions 46, 47 and 49 – 99 of CPV of EU Directive
- Importantly it should be noted with regard to Services that the full rigours of the Directives apply to the Priority Services tabled below (Table 4).

Table 4
Priority Services

Category	Annex II A – Priority Services Subject 9 (Annex XVIIA for utilities)	CPC Reference No
1	Maintenance and repair services (machinery, plant etc not buildings)	6112, 6122, 633, 886
2	Land transport services, including armoured car services, except transport of mail	715 (except 71235), 7512,87304
3	Air transport services of passengers and freight, except transport of mail	73 (except 7321)
4	Transport of mail by land and by air	71235, 7321
5	Telecommunications services	752
6	Financial services (a) Insurance services (b) Banking and investment services	Ex 81, 812, 814
7	Computer and related services	84
8	R & D services	85
9	Accounting, auditing and book-keeping services	862

10	Market research and public opinion polling services	864
11	Management consulting services and related services	865,866
12	Architectural services, Engineering services and integrated engineering services, Urban planning and landscape architectural services, Related scientific and technical consulting services, Technical testing and analysis services	864
13	Advertising services	871
14	Building-cleaning services and property management services	874, 82201,82206
15	Publishing and printing services on a fee or contact basis	88442
16	Sewage and refuse disposal services, Sanitation and similar services	94

Table 5
Non-Priority Services

Category	Annex I I B Non-Priority Services (Annex XVII B in Utilities) Subject	CPC Reference No
17	Hotel and restaurant services	64
18	Transport services by rail	711
19	Water transport services	72
20	Supporting and auxiliary transport services	74
21	Legal services	861
22	Personnel placement and supply services	872
23	Investigation and security services (except armoured car services)	873 (except 87304)
24	Education and vocational education services	92
25	Health and social services	93
26	Recreational, cultural and sporting services	96
27	Other services	

Only the Principles of Procurement apply to the Non-Priority Services which are tabled above. (Table 5). These aspects are listed below

- Compliance with rules on open specifications – must not restrict trade.
- Issue an Award Notice to the OJEU for EU value contracts, but with option of publication or not.

BUT, Comply the Treaty Principles, i.e. transparency and equal treatment, therefore some form of advertising should take place taking into account potential cross border interest, appropriate to the value of the contract remember you could advertise in the OJEU, but use shorter timescales if necessary.

6.3 Excluded Services

There are a number of services which are known as excluded services and are therefore not subject to any of the public procurement rules. Historically these were excluded because there was no competition in the market.

- Land/existing buildings (rental or acquisition)
- Broadcast material/time purchased by Broadcasters
- Arbitration & conciliation
- Securities/central banking
- Employment contracts
- Certain R&D contracts (where benefits not for contracting authority)

While these Excluded Services are specifically not covered by the Directives, there is no rule preventing competitive tendering.

6.4 Works

A Works Contract is:

- In Writing for Pecuniary Interest
- With the object of:
 - The execution of specified works, or
 - Both the execution and design of specified works, or
 - The outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic and technical function
- Defined by reference to Annex 1 of Directive
- Division 45 of CPV of EU Directive
- Certain contracts contain elements of works, however are not defined as works – i.e. facilities management.

6.5 Subsidising Works Contracts

Where more than 50% subsidy is received for certain works contract(s), the awarding authority must comply with the Directive or national guidelines, depending on the value, whether a public authority or not. A funding body should link proof of compliance with the appropriate competitive tendering with payment of subsidy, obviously having informed parties of requirements at initial stage.

7. **AUTHORITY LEVELS**

7.1 **Tendering/Contract Stages**

The tendering process involves a number of different stages, in respect of which different authority levels apply. (All values relating to purchasing authority levels are exclusive of VAT²). The stages are:-

- Authority to issue tender enquiries.
- Authority to approve award of contracts.
- Authority to sign orders or formal contracts.
- Authority to agree variations.
- Authority to agree contract disputes.

7.2 **Authority to Issue Tender Enquiries**

It is the responsibility of Section Head to identify their respective procurement requirements, and to obtain a budget code(s) for them.

7.3 **Authority to Approve Supplier Selection and Contract Award Criteria**

As the supplier selection and contract award criteria are critical **but separate** elements in the procurement process, the following formal approvals are required in respect of tenders and projects:-

Supplier Selection Criteria and their weightings must be approved at the appropriate authority levels set out in Tables 6 below in advance of supplier selection.

Contract award criteria and their weightings must be approved at the appropriate authority levels set out in Table 6 below in advance of the issue of Invitation to Tender documents to selected suppliers.

Please see the table of proposed authorities in the table below.

Authority Levels for Selection and Award Criteria Louth County Council

Table 6

Expected Contract Value €m	Purchasing Process Approval	Selection Award Criteria	Award
Up to 25k	Senior Executive Officer / Senior Engineer	Project Manager or nominated Senior Executive Officer / Senior Engineer	Senior Executive Officer / Senior Engineer
25k to EU limit	Senior Executive Officer / Senior Engineer	Director of Services	Director of Services
EU limit	Director of Services	Director of Services	Chief Executive

7.4 Authority to Approve Award of Contracts

The Project manager, through his Senior Executive Officer, should accept or

²Pre VAT values are used in line with the EU Procurement Directives

delegate, it may be appropriate to set up a cross-functional Tender Adjudication Team to evaluate tenders and recommend award of contracts.

All capital projects/works and all other contracts with an estimated value in excess of €50,000 must be approved using the Contract Award Recommendation – see Appendix 7.

The award of a contract to the recommended supplier or contractor must be approved at the appropriate levels set out in the table below:

Table 7

THRESHOLD	NECESSARY APPROVAL Any persons specifically authorised by the relevant Director of Services to approve such orders or contracts.
Up to EU Limit of €5,225,000 for Works or €209,000 for Supplies and Services	The relevant Director of Service
Over EU Limit of €5,225,000 for Works or €209,000 for Supplies and Services	Chief Executive

In determining the value of a contract the maximum possible value must be used. See, Appendix 10 of the Procedures document for details on contract valuation including considering aggregation.

7.5 Authority to Sign Formal Contracts

Once the appropriate approvals have been obtained, only the following persons is authorised to sign contracts on behalf of Louth County Council:-

Table 8

THRESHOLD	AUTHORISED SIGNATORIES
Up to EU Limit	Director of Service
Over EU Limit	Chief Executive

A formal contract document should always be executed in respect of orders having a value in excess of €25,000.

7.6 Authority to agree variations to contracts

Approvals for project of capital expenditure should normally include a contingency sum to cover variations for unforeseen events, which arise during the course of a contract and for identified risks.

Any variation/claim must be handled in accordance with the terms and conditions of the contract and comply with EU Procurement Directives if applicable. Legal or technical advice may be required. The contract will normally stipulate who can award variations i.e. Director of Services or for works contracts, “the Engineer” or “the Architect”.

Where a variation to a contract is likely to cause the contingency sum to be exceeded, prior approval at the appropriate level for the revised (i.e. aggregate) capital expenditure value must be obtained. (Note – This requirement is in addition to the requirement for submitting a Budget Amendment Sheet on capital projects) and any approval requirements of the Department of Environment, Community and Local Government.

7.7 Authority to Settle Contract Disputes

Variations and claims arise from time to time during the performance of a contract, and are dealt with under the terms of the contract. However, should such variations or claims be significant and contested, then this should be regarded as a dispute situation.

Any discussions with or concessions to a supplier or contractor regarding such a dispute, however informal, may prejudice Louth County Council legal rights under such contract. Accordingly, the Senior or the person authorised under the contract shall seek legal advice from Louth County Council Solicitor immediately on becoming aware of the existence of a dispute situation. Before negotiating the settlement of such disputed claims or variations, the Senior or the person authorised under the contract shall also notify their Director of Services and seek prior approval at the appropriate level to settle the dispute as well as approval for further expenditure as required.

If the cost implications to Louth County Council of the dispute are likely to exceed the approved Budget amount, negotiation of a settlement shall also require the prior approval of the Chief Executive.

7.8 Authorisation to Delegate Authority Levels

Authority levels can only be delegated with the express written approval of a superior of the person holding the specified authority. A register of persons with such approved delegated authority shall be maintained.

8. **DISPOSAL OF ASSETS POLICY**

Louth County Council occasionally divest themselves of assets of many different types, such as stock, vehicles, equipment, scrap etc.

The process of Disposal of Assets has a direct impact on the balance sheet and is subject to similar risks as the Procurement process, therefore similar controls and procedures are required.

All references to disposal of assets in this document includes “access to property or infrastructure for commercial arrangements”.

8.1 **Policy**

It is Louth County Council policy to dispose of assets in a manner that:-

- Is transparent
- Achieves a fair market-related price
- Ensures equality of access to potential buyers
- Conforms with best practice

It is Louth County Council’ policy to use a competitive process as standard practice for disposals whose Anticipated Disposal Value is greater than €5,000.

Simpler procedures are in force to cover disposals with anticipated values of less than €5,000, with specific provisions for the following:-

- Disposals of obsolete stock
- Ad hoc sales of current stock
- Disposal of scrap materials (by-products of production/operations)

8.2 **Authorisation**

The authorisation requirements and authorities are as detailed in Table 9 below. The detailed procedures on Disposal of Assets are included in Procedure F of this document and include special provisions to deal with:-

- Disposals of franchise / access / rental arrangements.
- Disposals to staff.
- Disposals to Charitable / Community / Heritage Councils.
- Disposals of production by-products.

Where it is not proposed to accept the highest bid following a bid process, then specific approval is required as specified in Table 1, column “Alternative to Standard Disposal Procedure”.

All disposals shall be:-

- Authorised in accordance with this policy and its related procedure.
- Processed through Agresso.

- Reflected in an update of the Fixed Assets Register, where appropriate.

8.3 Conflict of Interest

The principle of avoiding Conflict of Interest shall be adhered to at all times, staff who are involved in the proposal or approval of a disposal must:-

- Have no other interest in the disposal.
- Not be a direct report to anyone with an interest in the disposal.

8.4 Segregation of Duties

Due consideration must be given to the segregation of duties (i.e. at no stage should one person have authorisation to carry out all steps in the sales transaction).

8.5 Treatment of Exceptions

Transaction value greater than €5,000

Details of, and explanations in respect of disposals, the disposal value of which is above the threshold of €5,000 and which have not been subject to auction or competitive tendering process, shall be reported in the AFS by the Head of Finance and shall be included in the annual report.

Table 9 – Disposal of Assets value thresholds

No.	Category	Proposal recommended by	Disposal approval	Standard Disposal Procedure	comments
1	Assets above €5k - €70k	Senior Executive Officer / Senior Engineer	Director of Services	RFQ to min of 3 companies	
2	Assets below €5k	Relevant Department Manager	Director of Services	Single offer	

In the event that the highest bid is not accepted following an auction or competitive tendering process, specific approval is required before the disposal of the asset or granting of access to property or infrastructure for commercial arrangements with third parties can be completed. For reasons of transparency, such approval together with the reasons why a lower bid is proposed should be noted by relevant Directors Order.

Transaction value less than €5,000

Details of all disposals of assets <€5,000, where the Standard Disposal Procedure was not followed, shall be reported on an annual basis giving, as a minimum the description of the assets, the price paid and the name of the buyer.

All disposals with a value of €5,000 or more should be reported to the relevant Audit Committee on an annual basis.

8.6 Review

The Internal Audit Service may review compliance with the disposal procedures detailed in this document and set out in the Code and report to the Audit Committee thereon on an annual basis.

Notes:

1. Assets with negative disposal value should be assessed using the same value thresholds.
2. Assets, includes scrap materials, furniture, stock, equipment, machines, vehicles etc.
3. In all cases, there shall be a Segregation of Duties whereby one person can only invoke one of the functions listed below on any given transaction. Where the Senior Executive Officer recommends the disposal of stock items the approval of the Director of Services is also required.
4. Before committing to disposal by auction prior approval at the appropriate level is required.

Section 2

PROCUREMENT PROCEDURES

1. PROCEDURE A – FORMAL TENDER
(Contracts over €25,000 Supplies and Services or €50,000 Works)

Tender Procedure

The tender procedure employed must ensure adequate respect for the following principles:-

- Transparency
- Equality of treatment (non-discrimination)
- Proportionality
- Mutual recognition

Louth County Council also ensures that it complies with the competition rules in respect of all its procurement activities. Louth County Council may impose requirements with a view to protecting the confidential nature of information which they make available. Information designated confidential will not be disclosed to tendering parties.

1.1 Notification

The Senior Executive Officer must notify his/her Director of Services and Procurement Section before 30th November of all purchases requiring a formal tender procedure for the following year. The Procurement Section may decide to aggregate similar projects in an attempt to achieve best value

1.2 Tenders subject to EU Procurement Directives

Where the value of the tender exceeds or is expected to exceed the thresholds set out below, Louth County Council policy is that the procedure used must fully comply with Council Directive 2004/18/EEC starting with a call for competition which must be sent for publication in the OJEU (see Appendix 3 for details on contracts subject to the EU procurement regime).

Table 10

THRESHOLDS	VALID TO JAN 2016
Works	€5,225,000
Supplies or Services	€209,000

)

1.3 Contract Valuation and aggregation

The EU Procurement Directives specify methods of calculating the value of long term or related/aggregated contracts, contracts with option clauses etc. The relevant Director of Services is responsible for determining whether the EU Procurement Directives apply to a particular contract. Guidance on determining valuation is set out in Appendix 9.

When estimating the value of a contract no project or purchase should be subdivided to avoid the application of the EU procurement Directives. This applies equally to leasing, hire rental or hire purchase or outright purchase. In general, where a supply, service or works contract cannot indicate a total price, or does not have a fixed term or has a term greater than four years, the estimated value must be calculated by multiplying the monthly value by 48.

Where a project or purchase involves separate lots, the value of all lots must be included in estimating the value of the contract. Where there is a possibility of a further phase, or phases of a project, these should be included in estimating the value and reference should be made in the notice or the tender documentation to the possibility of such additional phases being undertaken.

These procedures for estimating contract values shall be applied, where necessary, for contracts below the EU thresholds.

Where any supplies or services are to be made available by Louth County Council to the contractor then the value of such supplies and services shall be taken into account in calculating the estimated value of the contract.

1.4 Types of Tendering Procedure

All calls for competition notice including newspaper advertisements and notices to be published on the government website must be issued through the office of the Procurement Section, who is responsible for selecting the appropriate tendering procedure. All advertisements must comply with the Department of Finance Circular 22/95 in relation to Tax Clearance Procedures for Public Sector Contracts. See Appendix 6.

A call for competition notice must be published for tenders subject to the EU Directive. Louth County Council may use any of the four procedures permitted by the Directive – Open, Restricted, Competitive Dialogue or Negotiated.

1.5 Tender Documents

All invitations to tender must include approved conditions of tendering and conditions of contract with appropriate award criteria.

1.6 Invitation to Tender

All invitations to tender and requests for quotations, including newspaper advertisements, must be approved by the Procurement Section. All advertisements

and tender documentation must state that it will be a condition for the award of the contract that a firm or individual must comply with the terms of the Department of Finance Circular 22/95 in relation to Tax Clearance Procedures for Public Sector Contracts in order to be considered. These are summarised in Appendix 6.

All tenders must be addressed to the Procurement Section. All invitations to tender must include a firm closing date and time.

All invitations to tender must specify that tenders submitted are to be sealed and marked externally with the tender reference number.

Selection criteria

Suppliers responding to a call for competition notice under the restricted procedures may be short listed to keep the size of the bid list to a manageable level.

Objective rules for short-listing candidates should be set out for each tender, and must be made available to interested suppliers. The number of candidates included on the Tender List must be sufficient to ensure adequate competition (i.e. at least five except in exceptional circumstances).

The decision to select a company should be based on their respective Economic/Financial and Technical ability, selection criteria should be chosen to ensure only suitable candidates are invited to tender. All candidates responses (questionnaire) should be treated equally.

Groupings of Suppliers

Groupings of suppliers or contractors may be permitted to tender and negotiate without adopting a specific legal form. If such a grouping is to be awarded a contract, Louth County Council may require them to adopt such legal form as is necessary for the proper performance of the contract.

Issuing tender form documentation (Award Process)

Tender invitations must be issued to all short listed candidates on the same date and in writing. The tender invitation must contain the following minimum information:-

- Address and the final date for requesting additional documents, and any sum to be paid for such documents.
- The final date for receipt of tenders, the address to which they must be sent, and the language in which they must be drawn up.
- Reference to the tender notice published.
- Indication of any document to be included in the tender.
- The criteria for the award of the contract along with their respective weightings.
- Any other special conditions for participating in the contract.

Framework agreements

Framework Agreements may be used to establish the terms and conditions governing purchases for a specified period of time, especially where some elements of the requirement (e.g. quantity, price, precise specification etc.) cannot be firmly established at the commencement of the agreement. Framework agreements can be with one or more suppliers, and can facilitate the purchase of works, supplies or services in separate tranches from the same supplier or list. Louth County Council may regard a framework agreement as a contract as described in the Directive and award it in accordance with the Directive and Regulations.

Where framework agreements are being used then the estimated value to be taken into consideration shall be the maximum estimated value (exclusive of VAT) of all the contracts envisaged for the total term of the agreement.

Standards and Specifications contained in the invitation to tender and related documents

- Technical specifications shall be defined by reference to EU specifications (i.e. common technical specifications, EU technical approval, or national standards implementing EU standards) where these exist, otherwise by reference to other standards having currency in the EU. Under the principle of mutual recognition, any official standard for a given application must be accepted as valid.
- Additional requirements should be specified using performance rather than design or description characteristics. Essentially, state what the product/service must do/achieve rather than how it is designed or manufactured.
- Reference must not be made to goods of a particular make, source or process unless they cannot otherwise be defined and then a statement to accept equivalents must be included. If there is a need to refer to a trade mark, patent, or goods of a particular type or origin, this must follow with the words “or equivalent”.

There are a limited number of circumstances in which derogation may be made from the requirement to utilise an EU specification. The prior approval of the Director of Services must be obtained before derogation is sought to be applied and legal advice taken as appropriate. Whenever derogation is availed of this must be expressly stated in the call for competition and award notices published in the OJEU.

Additional Information

Additional information relating to the contract in question requested by any tenderers must be given to that tenderer and copied to all tenderers no later than six days before the specified date for receipt of tenders where the request is reasonable and it is made in time for Louth County Council to supply the information.

Communication

All communication and information exchange with tenderers may be carried out by post, by fax or by electronic means or by a combination of those means.

Award criteria

When inviting suppliers to tender, Louth County Council must state the criteria by which the contract will be awarded such as:-

- The most economically advantageous tender. The criteria for awarding the contract must be set out in the call for competition notice or in the tender documents along with their respective weightings which must be determined in advance. Criteria may include for example:-
 - Cost
 - Cost effectiveness
 - Delivery/completion date
 - Security/continuity of supplies
 - After sales service
 - Other stated criteria
 - Reliability and continuity of supply
 - Technical merit
 - Functional characteristics
 - Quality
 - Technical assistance
 - Availability of spare parts
 - Aesthetic characteristics

The selection criteria under which bidders can be excluded on grounds of financial status or technical merit is entirely separate from an evaluation of the bid in accordance with the award criteria. Selection refers to the capacity of the bidder.

Tender documents should indicate whether variants are acceptable and state the minimum specifications acceptable for variants.

Louth County Council shall specify at the tender stage the relative weighting which it gives to each of the award criteria chosen to determine the most economically advantageous tender. Sub criteria must also be scored, with similar inclusion in documents.

Louth County Council may not reject what appears to be an abnormally low tender without first requesting in writing an explanation of the offer including a detailed breakdown of the constituent elements of a tender and taking into account all explanations.

Conflicts of Interest

Care should be taken to ensure that specifications and criteria should be as open and generic as possible in order to avoid favouring any one solution or any one party.

The tender documentation should always include reference to conflicts of interest, clearly specifying that failure to disclose a material conflict of interest may disqualify a bidder or cause the termination of a contract and entitle Council to seek remedies, such as costs or compensation for loss. Tenderers should be asked to provide a declaration of non-alignment with entities or interest that could compromise objectivity.

Confidentiality

Council may impose requirements with a view to protecting the confidential nature of information which they make available to candidates or tenderers. Information which is designated confidential by tenderers may not be disclosed.

1.7 Tender period

If a contract is subject to the EU Procurement Directives, strict time periods are set down, see Appendix 3. In all cases, the tender period should be reasonable in duration and take account of the complexity of the contract.

1.8 Extension of closing date

Extension of the closing date for receipt of tenders will only be permitted in exceptional cases and must be approved in advance by the Director of Service. All tenderers must be advised of the extension. **No extensions can be granted within five working days of the closing date**, except in exceptional circumstances.

1.9 Receipt and opening of tenders

All tenders must be returned for the attention of the Senior Executive Officer, Corporate Services, Louth County Council, Millennium Centre, St. Alphonsus Road, Dundalk, Co. Louth where they will be securely stored until the formal opening occurs. On or after the closing date, all tenders must be opened together.

Advance notification of the deadline for receipt of tenders must be given to Procurement.

Each tender must be stamped with the date and time of opening and signed by the authorised persons present. Two persons must be present to open tenders, one from the section that instigated the tender process together with an official from another section. A Register of Tenders Received must be completed and signed by the authorised persons present. A copy of the register must be forwarded to the Procurement Unit and the original to be retained on the project file.

Tenders may be accepted using the eTenders postbox facility. A decision must be made at the creation stage of a Request for Tender (RFT) whether you want to

receive submissions electronically via the etenders postbox or hard copies by post. You cannot use both options, it's either one or the other.

The 'electronic' opening committee, minimum of two, must be selected at the creation stage of RFT on the etenders website, i.e. one from the section that instigated the tender process together with an official from the Procurement Unit.

User guides are available on www.etenders.gov.ie

1.10 Late tenders

A tender received after the opening of other tenders may not be accepted under any circumstances and must be returned to the sender, unopened if possible, or if not, date stamped with the date upon which it was opened.

Tenders received after the closing date, but before opening of other tenders, will also be returned similar to above.

1.11 Tender evaluation

Contracts shall be awarded to entities which have satisfied financial and technical qualification criteria and whose bid satisfies the award criteria specified in the invitation to tender and with the EU Procurement Directives where applicable. Where appropriate, the Senior concerned completes a technical evaluation with a suitably qualified team. The preferred bidder is selected and a Contract Award Recommendation is prepared for approval.

In some circumstances, it may be appropriate to set up a joint evaluation team comprising representatives of Procurement, Technical and Administrative Grade staff. This shall be at the discretion of the Director of Service.

The Senior should ensure that the successful applicant is aware of and has complied with the Department of Finance Circular 22/95 in relation to Tax Clearance Procedures for Public Sector Contracts. A contract should not be awarded to any firm that cannot produce a Tax Clearance Certificate except as a last resort. In any such case, the advance approval of the Department of Finance must be obtained.

The Senior may consult with the Head of Finance regarding appropriate discounting methods, interest rates to be used in the commercial assessment and inflation rates.

1.12 Purchase approval

The subsequent application for purchase approval must be prepared for submission to the appropriate authority level.

For contracts with a value of €25,000 for Services and Supplies and works of €50,000 or more a Contract Award Recommendation must be signed off as follows:

Table 11

SIGNATORY	RESPONSIBILITY
Originating Section	Verifying that the recommended tender complies with the specification/performance requirements and that the recommended contractor has the necessary experience, expertise and technical resources to fulfil the contract. (See Note 1 below)
Finance	Or nominate delegate Verifying that the contract can be accommodated within the approved budget.
Director of Service	Verifying that the legal risks have been explained and accepted by the person(s) with ultimate responsibility for the project or contract and that further to this acceptance the contract documentation is appropriate for the project
Procurement	Verifying that all procurement rules and procedures have been compiled with the recommendation complies with the award criteria specified and the recommendation contractor has the necessary financial resources to fulfil the contract.

Note:

Where the specification applies to multi-department and multi-site locations for not-critical materials or service, the Director of Services, Corporate Services may sign off in respect of the specifications.

No order, letter or intend or other written or verbal instruction to proceed shall issue prior to the completion of the Contract Award Recommendation.

1.13 Contract award/order issue

All purchases must be made by means of an official order or Form of Agreement signed by the appropriate authorities. Un-priced orders should not be placed in any circumstances.

1.14 Contract Monitoring

The performance of successful tenderers must be monitored by the Senior in the case of stock items, and concerns regarding the performance of a supplier/contractor should be notified to the Procurement Manager. A Contract Award Assessment must be completed and is attached at Appendix 10.

1.15 Notification of Contract Award

In the case of contracts subject to the EU Procurement Directives, unsuccessful tenderers should be notified promptly in writing by the Council that they have not been successful and that a contract is being awarded to another bidder. Contracts should not normally be entered into with the successful bidder for at least fourteen days since the date that the unsuccessful bidders were informed. Where urgency required a contract to be entered into prior to the elapse of the fourteen days, the “stand still” period may be reduced to seven days. However, if during the seven days period an unsuccessful bidder confirms that they intend seeking a review of the contract award decision, no contract can be entered into until at least ten days have elapsed from the date of notification to the unsuccessful bidder. Any notification to the preferred bidder should be provisional only, should not constitute a contractual commitment and they should be advised that any contract will not be progressed until the “stand still” period has elapsed.

Special rules on notification apply to contracts subject to EU Procurement Directives – see Appendix 3.

1.16 Debriefing of Tenderers

It is not the policy of the Council to carry out debriefing meetings as all relevant information should be outlined in the notification of regret such as:

- The name of the successful tenderer.
- The reasons for rejection of his application or his tender
- Where a contractor has submitted an admissible tender he should be informed of the characteristics and relative advantages of the tender selected.

No information of a confidential nature shall be given to the unsuccessful tenderer.

1.17 Cancellation of Tender Process/Reactivation

There may be instances, due to a change in circumstances, where a tender process has to be cancelled prior to the award of the tender, or re-activated after a contract has been awarded or cancelled. Any such situation should be referred to the Procurement Section for a decision as to how the process of cancelling or re-activating the process should be handled.

1.18 Tender File

A tender file must be created and maintained in the format of Procedure G of this document.

2 PROCEDURE B – REQUEST FOR QUOTATION (RFQ) (Contracts under €50,000 for Works or €25,000 for Supplies and Services)

2.1 Notification

The user notifies the relevant Senior of their purchase requirements by memorandum

2.2 Purchasing Benefits

The Procurement Section will be notified to ascertain any aggregation or lead purchasing benefits.

2.3 Request for Quotation

All requests for quotation must include a sufficient description of the materials required or the works to be carried out, as well as a reference to the standard Council conditions of contract which will apply.

Reference must not be made to goods of a particular make, source, or process unless they cannot otherwise be defined and then a statement to accept equivalents must be included. If there is a need to refer to a trade mark, patent, or goods of a particular type or origin, this must be followed with the words “or equivalent”.

The order and the RFQ will state that the Council purchase solely in accordance with their terms and conditions.

2.4 Issuing a Request for Quotation

All requests for quotations must be marked returnable to the buyer by post, facsimile, electronic mail or preferably on etenders on or before a firm closing date and time. Sufficient time should be allowed to permit suppliers to prepare and submit a competitive quotation. A minimum of three quotations should be invited for all purchases with an estimated value over €5,000 under this procedure. However for works purchases with a value less than €50,000 for Works, five quotations will be sought. One written quotation only is required where value is less than €5,000.

2.5 Receipt of Quotations

Following receipt, quotations must be held on file.

2.6 Late Quotations

A quotation received after the closing date should only be considered in the absence of three other quotations and only the express approval of the Director of Service.

2.7 Contract Award/Order Issue

All purchases must be made by means of an official order or Contract Agreement signed by the appropriate authorities. Un-priced orders may not be placed save in exceptional circumstances e.g. repairable items.

Where the value of the contract exceeds €10,000 in any 12 month period, the Head of Finance should ensure that the successful applicant is aware of and has complied fully with the Department of Finance Circular 22/95 in relation to Tax Clearance Procedures for Public Sector Contract. Successful applicants will have ten working days to provide the necessary Tax Clearance Certificate.

A contract should not be awarded to any firm that cannot produce a Tax Clearance Certificate except as a last resort. In any such case, the advance approval of the Department of Finance must be obtained.

Note : Revenue is planning to have e-Tax Clearance in place from 1st January 2016 which means that a taxpayer's clearance certificate can be rescinded if their tax affairs are not kept up-to -date. The move to electronic tax clearance will mean significantly fewer paper tax clearance certificates being provided; instead an applicant's tax clearance will be checked online.

3. PROCEDURE C – Low Value Purchase Cards

3.1 Preamble

The low value purchase card is based on VISA Card technology with added enhancement to suit the needs of commercial organisations. It is targeted at the multiple low value transactions for items other than Stock Parts it enables:

- The local Budget holder to make these purchases independently
- The prompt payment of these vendors
- Procurement to analyse the spend with a view to improving prices and service in the future
- The uploading of the expenditure into Accounting system
- a reduction in the number of:
 - Vendors maintained on the system
 - Purchase Orders to be created; and
 - Invoices to be processed

The Low Value Purchase Card Buyer shall report to the Head of Finance on matters relating to procurement and advise them of any matters giving cause for concern.

3.2 Card Conditions

- A card is assigned to one person
- Each card has its own:
 - Transaction limit
 - Monthly limit; and
 - Authorised Vendor Categories
- The card also has a 16 digit code which will be used to record the:
 - Cost Centre/Project/Internal Order to be charged; and
 - The General Ledger code to be charged

3.3 Control

- The user records each transaction in a written log
- The user reconciles the monthly Visa Statement with the log and signs if all is in order
- If an error is found on the Statement, or a query is raised by the user, the person responsible must deal with the bank to resolve the issue
- The user's manager signs the Statement if all is in order and files the audit
- The Statements will be audited periodically by the Head of Finance or his nominated delegate

PROCEDURE D – Capital Expenditure

Special purchasing procedures apply to expenditure incurred in respect of capital or works contracts

4.1 Definition

Capital expenditure includes any expenditure incurred on addition, extensions or improvements to, or replacements of:

- Land, Houses, Roads, Waterplant and Waterworks, Fire Appliances, Motor Fleet
- Plant and Machinery
- Docks, harbours or wharves
- Furniture and fittings at a cost of €5,000 or more per unit, which are capitalised

Exceptions

Expenditure on the following items is not capitalised, but is charged to Revenue:

- Projects costing less than €2,000
- Office equipment – excluding personal computers – costing less than €5,000 per unit
- Upkeep and maintenance of buildings and car parks
Where expenditure is proposed on personal computers, supporting software, telecommunications equipment and IT consultancy, it must be channelled by the Senior, to ICT, who are responsible for technically assessing the proposal.

4.2 Annual Capital Expenditure Budget

The Council prepares an annual capital expenditure budget, which is submitted to the Council for approval.

4.3 Prior Approval for Capital Expenditure –

All Capital Expenditure, whether incurred through lease or outright purchases must be approved in advance and must have completed a Capital Appraisal Process as outlined in the Dept. of Finance guidelines

4.4 Approval of Additional expenditure on previously approved Capital Projects

Where it appears that actual expenditure will exceed the expenditure which has been authorised by more than 5%, a supplementary proposal must be submitted to the relevant authority setting out details of the increased costs, and the factors which have given rise to them.

Expenditure in excess of the amount authorised may not be incurred until the supplementary proposal has been approved and a Budget Amendment Sheet (BAS) has been prepared and approved.

4.5 Authorisation for Capital Expenditure

The total Capital Expenditure for Council on an annual basis will be accommodated within:

- The General Government Public Capital Programme

- The annual capital expenditure budget approved by the full Council for the year in question.

The application for Capital Expenditure Approval should include an appropriate contingency to cover variations or unforeseen events, which may arise during the course of the project

It should be noted that this prior expenditure approval does not constitute approval to award a contract to as the contract award approval procedure set out in Appendix 7 of the Council Procurement Policy must be followed.

4.6 Project Approval Sheet

Following approval by the relevant authority and before any expenditure is incurred, a Project Approval Sheet in the format below, is prepared and signed by all the appropriate signatories. These are:

- The Budget Holder
- The Relevant Procurement Manager
- The Relevant Director of Service
- The Chief Executive (where the value of the contract exceeds EU Limits)

4.7 Approval for Award of Capital Contracts

For each contract to be awarded under an approved Capital Project, the tendering procedures set out must be followed.

Approval for the award of individual capital contracts must be obtained in accordance with the authorisation limits set out in Section 7 of this document.

4.8 Cancellation of Projects

Projects which have been approved but cannot subsequently be carried out as originally planned, either before commencement or subsequently during the course of construction, must be cancelled by issuing a formal notice to the supplier, setting out details of the cancelled project and the reasons for its cancellation.

A summary of the cancellation report must be submitted to the relevant Director of Service as soon as possible after cancellation of the project.

Where a cancelled project fell within the scope of the EU Procurement Directives and was advertised with a call for competition, the Council should ensure that all parties are promptly informed of the cancellation of the project.

5. Procedure E – Debriefing Suppliers

5.1 Access to Debriefing

Suppliers and contractors who have participated in a bid for contracts covered by the EU Procurement Directives should have access to relevant information concerning the selection of the winning bid and the criteria and rules relating to contract award procedures. All suppliers should be given as much detail in the results process. This will enable them to improve their performance and encourage them to bid for future contracts and could make an action or complaint less likely.

5.2 Confidential Information should be properly respected

- Suppliers' and Contracting Entities 'Rights to Confidentiality':
 - The full confidentiality of tenders should be maintained pending their evaluation and the award of the contract.
 - The confidential nature of information made available by suppliers should be respected, where indicated as such
 - In certain cases, it may be necessary to require suppliers to hold strictly confidential all information gained by them during the tendering process

5.3 Actual Debriefing Meeting

It is not the policy of the Council to carry out debriefing meetings as all relevant information should be outlined in the notification of regret.

5.4 Information Requirements

The following information should be made available where practicable to suppliers or contractors interested in doing business with Council:

- Non-confidential technical specifications regularly referred to in the contract documents
- The criteria used in selecting candidates to tender, although restricted where it could not give rise to a breach of the principles of transparency and non-discrimination.

6. Procedure F – Disposal of Assets

Preamble

The Policy for Disposal of Assets is set out in Section 8 earlier. This procedure details the processes governing the Disposal of Assets of different types and the granting of access to property or infrastructure.

It is Council's policy to operate in a fair, open and transparent fashion and, obtain value for money, for Council, while ensuring that the core business objectives of Council and its subsidiaries are not compromised

Anticipated

The Anticipated Disposal Value (ADV) may be defined as a genuine pre-estimate of the value that would be obtained in the market-place. Estimating the ADV is critical to this Disposal of Assets Procedure as this determines which disposal method is utilised and is an indicator as to whether value for money is being obtained or not.

The Disposing Section may, at their discretion, require any of the following to be used to determine the Anticipated Disposal Value

- Price recorded in the company accounts books (book value)
- Independent valuation
- Valuation by Council staff with expertise, such staff having no other connection to the proposed disposal
- Reference to recent similar sales, where a bid process was used
- Reference to market prices for these products

It should be noted that the book value may differ significantly from the price that may be obtained in the market place at a given point in time. In determining the ADV the following should be taken into account:

- Age
- Condition
- Replacement Price
- Second hand market price
- Depreciation/Appreciation profile (e.g. Art, property etc)

Authority to Dispose of Assets

Assets shall be disposed only following approval from Head of Finance.

In addition, the principle of avoiding Conflict of Interest, and the Segregation of Duties shall be adhered to at all times.

Staff, who are involved in the Proposal or Approval of a disposal must:

- Have no other interest in the disposal
- Not be a direct report to anyone with an interest in the disposal

Staff who are involved in the processing of the Sales Process shall be appointed with due consideration to the segregation of duties (i.e. at no stage should one person have authorisation to carry out all steps in the sales transaction).

Disposal of Assets Process.

The disposal of assets shall be in accordance with the approval structure. These procedures are formulated to ensure openness, transparency and value for money, with approval controls proportionate to the anticipated disposal value.

Each disposal shall be processed using an Agresso Purchase Order and will include, as a minimum, information on

- The Grouping to which the buyer belongs (e.g. staff member, third party, charitable organisation, director, etc.)
- A description of the asset including its conditions
- The price paid
- The name and address of the buyer
- This register shall be available for inspection, if requested.

Reports

The Director of Service in each area shall prepare reports for the Head of Finance on an annual basis.

Disposal to Non-profit making Organisations

From time to time Council disposes of assets to non-profit making charitable/community/ heritage groups. The Council may dispose of assets at a price lower than the ADV without seeking market prices to these non-profit organisations as a contribution to Corporate Social Responsibility.

Authority to set the disposal price and to approve the disposal to such organisation shall be by Chief Executives Order.

Notes:

1. Assets with negative disposal value should be assessed using the same value thresholds
2. Assets include Scrap materials, furniture, stock, equipment, machines, vehicles etc.
3. In all cases, there shall be a Segregation of Duties whereby one person can only invoke one of the functions listed above on any given transaction.
4. Before committing to disposal by auction prior approval at the appropriate level is required.

7. Procedure G – Maintenance of Documents

7.1 Keeping records and files

Proper records and files must be maintained in respect of all procurement activities. It is the responsibility of the Procurement Section, or their nominee, to issue tenders and request for quotation, and to maintain these records and files.

All tender files should include records of the following where applicable:

- Request to Purchase from user
- All OJEU notices to include any Prior Information Notice (PIN), Qualification Notice, call for competition notice and Contract Award Notice for contracts subject to the EU procurement rules. (See Appendix 3 for details of Notices)
- If a contract is subject to EU procurement rules, reference to justification for the use of any derogation
- List of responses to notice
- Approved list of tenders
- Enquiries
- Conditions of tendering
- Conditions of Contract
- Specifications./Description of work
- Register of Tenders received (or requests for quotation, where appropriate)
- Copies of tenders or quotations (at minimum, the Form of Tender)
- Qualification/short listings criteria (where applicable)
- Qualification/short listings reports (where applicable)
- Contract award criteria
- Minutes of all meetings with bidders and prospective bidders including negotiation meetings
- Evaluation report (spreadsheet) and related evaluation notes
- Technical recommendation signed by Director of Services
- Contract Award recommendation
- Copy of order/letter of appointment/signed contract
- Regret letters to unsuccessful tenderers
- Vendors financial information
- Explanatory letters to unsuccessful tenderers where requested

All tender files for contracts having a value in excess of €25,000 for Supplies and Services or €50,000 for Works should include a checklist of these requirements, which should be signed when the contract is executed.

7.2 All relevant tender files must be held safe and available for inspection or audit for a minimum of seven years after the completion of a contract. Where contracts are funded by the EU or executed under seal, the relevant tender files must be held for a minimum of 12 to 24 years from the project completion date.

8 Procedure H – Procurement Section

The role of the Procurement Section in Louth County Council reporting to the Senior Executive Officer, is;

- Generally secure value for money for the organisation through the procurement of supplies, works and services using best purchasing strategy and taking into account not just initial costs, but full life cycle costs for the particular produce or service.
- Ensure that supplies, works and services are purchased in line with current procurement policies and procedures. Ensure that approved procurement procedures are implemented throughout the organisation and maintain and update these as required.
- Lead procurement strategy development and cross-functional savings initiatives and be familiar with general market conditions, cost drivers and potential new suppliers.
- Provide a comprehensive procurement service, in a timely fashion, to users. All procurement staff should be fully trained and have appropriate experience in best procurement practices.
- Monitor business performance in achieving procurement excellence and value for money and report procurement savings achieved against target, on a regular basis.
- Conduct market research and prepare annual and corporate procurement plans.
- Ensure prudent risk management through the use of appropriate Terms and Conditions of Purchase for all supplies, works and service contracts.
- Liaise with all sections, where appropriate, to aggregate requirements or to act as a lead purchaser for bought-in supplies, works and services and thereby maximise overall value-for-money.
- Undertake commercial evaluation of tenders in accordance with pre-established criteria using market-place expertise and appropriate financial methodologies, where applicable.
- Obtain appropriate input from Financial / Legal / Insurance functions, as required.
- Prepare, approve and issue Letters of Intent / Formal Contracts or delegate as appropriate.
- Monitor supplier / contractor performance and manage organisation's supplier base.
- Participate in claims negotiations with suppliers and contractors.
- Ensure that all purchases take into account the requirements of Government and EU policies and procedures (e.g. Procurement Directives, safety, legal, environmental etc.).
- Approve / arrange / conduct / manage tender clarifications and negotiations, as required.

- Ensure adoption of best practice procurement methods (e.g. Procurement Cards for low value purchases), throughout the organisation.
- Ensure that suppliers / contractors are treated in an open, fair, transparent and objective manner, and in accordance with Government and EU policy
- Provide clarification / guidance in relation to any aspect of Government or EU procurement regulations.

Section 3

APPENDICIES

APPENDIX 1 – COMPETITION

a. Minimum Number of Bidders

Other than as provided for in paragraph 2 below, tenders of quotations for works contracts whose estimated value exceeds €50,000 should be sought from a minimum of five suitable companies, provided such a number are available for supplies and services for contractors up to €25,000, three quotations will suffice. The Tender List shall be drawn up by the Procurement Section in consultation with requesting section, giving due consideration to the principles of transparency, equality of treatment, proportionality and mutual recognition.

For contracts with values below €50,000, and above €5,000 the requirement is for three quotations or three invitations to tender.

For “Works” contracts with an estimated value below €5,000, the Procurement Section may waive the requirement for three quotations although consideration should be given for Frameworks for regular works.

1.2 Derogations

For low value “once off” (note: Aggregation rules will still apply) purchases with a value less than €5,000 there is no requirement to seek three quotations.

In certain exceptional circumstances, the requirement to seek tenders or quotations need not apply, this is known as a derogation from the general procurement requirements. In all cases where derogation is sought to be used a formal request for derogation must be prepared by the Project Manager and approved by the Procurement Section in the first instance. For urgent cases, the derogation shall be formally approved by Procurement Section and relevant Director of Service

Where the EU Procurement Directives apply, derogations shall only be used in exceptional circumstances where the relevant rule specifically allows a derogation to be used. Appendix 3 sets out the rules to be used when a contract falls within the scope of the EU Procurement Directives. If any uncertainty arises about the application of the Directives, the Procurement Section should be consulted. The Procurement Section may seek the advice of the Law Agent where appropriate.

Exceptional circumstances where derogations may apply in respect of contracts not subject to the EU Procurement Directives are as follows:

- **Urgency**

In so far as is strictly necessary, in cases of extreme urgency, brought about by unforeseen circumstances, where an immediate purchase must be made in order to avoid risk to persons, property or significant financial loss to Council.

- **Additional deliveries/works**

For additional deliveries/additional works where a previous contract was awarded under a competitive tender, and a change of contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance.

- **Additional Deliveries – Supplies and services**

For additional deliveries of goods by the original supplier where a previous contract was awarded under a competitive tender, and a change of supplier would mean goods having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation or maintenance.

- **Only one provider**

The supplies or services being purchased are of a proprietary nature or comprise spare parts for existing plant and equipment and are only available from a single source. The market must be tested periodically to verify this.

- **Bargain Purchases**

Bargain purchases or purchases under advantageous conditions, e.g. liquidation sale, creditor's agreement, winding up.

- **Commodities**

For supplies quoted and purchased on commodity exchanges

- **Other Special Requirements**

There are a number of instances where the competitive tendering process may not be necessary or cannot be implemented because of the intrinsic nature of the materials or service. This includes but is not limited to the following:

Subscription for membership of associations and periodicals, charitable donations, payment for temporary hire of contract staff, payment of compensation claims, payments to statutory agencies for services, sponsorships, payments for once-off training courses, payments for meals as part of training programmes, social schemes for staff and payments to hotels in respect of Railbreaks etc.

1.3 **Rollover Contracts**

Contracts for routine revenue items and services should only extend beyond their operative date with the prior approval of the Procurement Section. As a general rule contract extensions should not exceed 50% of the original contract value. Contracts must not be extended for an aggregated period of more than one year. Extension of contracts could give rise to a breach of EU Procurement Directives in certain circumstances.

1.4 **Prior approval**

Prior approval to award and contract must be obtained from the Procurement Section in all case.

In the case of urgent purchases a full explanation of the reasons giving rise to the urgency must be submitted to the Procurement Section for approval.

APPENDIX 2 – POST TENDER NEGOTIATIONS

2.1 General Policy

The normal procedure used to purchase materials and services is competitive tendering. Negotiations can take place in some circumstances to improve an offer under negotiations. Where the EU Procurement Directives apply, and use of the negotiated procedure is permitted, the full formal procedure must be utilised in conjunction with the Procurement Section.

2.2 Circumstances where Post-Tender Negotiations are allowed

In all cases, the decision whether or not to conduct negotiations lies with the Procurement Section. In general, however, negotiation should be used only where it is permitted under the public procurement rules and where it can give rise to a benefit for Council. Under the EU Procurement Directives, negotiation is not permitted in the open or restricted procedures.

2.3 Negotiation

When conducting negotiations, the following outline procedure should be adopted:

Preparing for negotiations:

- Form a small negotiating team with the requisite expertise
- Thoroughly analyse the tender documents, particularly price breakdowns
- Agree a shortlist of tenders for negotiation
- Set targets for the negotiation
- Agree tactics for the negotiation; and

Conduct of the negotiations:

- Hold the meeting in Council premises where possible
- The Procurement Section or their nominee lead the negotiations
- Declare the ground rules for negotiation (i.e. no “Dutch Auction”)
- Keep Minutes of the meeting and, if possible, agree the minutes with the supplier before the meeting is concluded.

The EU Directive must be consulted if this option is to be utilised as it is an option that must be used carefully.

APPENDIX 3 – EU PROCUREMENT RULES

Council policy is to apply the current EU directives as transposed into Irish Law by statutory instrument. The following is a basis summary of the directives. In case of any ambiguity between these procedures and the directives, the directives as transposed into Irish Law, will apply.

3.1 Threshold for Contracts Subject to EU Rules

Where the value of the tender exceeds or is expected to exceed the thresholds set out below the procedure used must fully comply with the Council Directive 2004/18/EC starting with a call for competition notice which must be sent for publication in the OJEU. The Procurement Section decides in all cases whether or not a contract is subject to EU rules.

The Council must comply with the current EU applied Thresholds which are valid until January 2016.

Table 12

Works	€5,225,000
Supplies or Services	€209,000

3.2 Standards and specifications shall be set out in the contract documentation

Technical specifications shall afford equal access for tenderers and should not have the effect of creating unjustified obstacles to the opening up of public procurement to competition. Council is entitled to request that the tenderer must prove to the satisfaction of Council that their products, services or work are in compliance with the requirements and meet the performance or function requirements of Council.”

Council may lay down special conditions relating to the performance of the contract (provided that these are compatible with EU law and are indicated in the Notice calling for competition or in the specifications).

3.3 Procedures to be used when a contract falls within the scope of the EU procurement rules

The Public Procurement Directives allows for four types of tendering procedures.

OPEN

Any interested supplier or Council of supplies may tender. No post tender negotiation is permitted in this procedure. An OJEU notice must be published.

RESTRICTED

All interested parties request to participate, but only those short listed by Council may submit tenders. No post tender negotiation is permitted in this procedure. An OJEU notice must be published.

- NEGOTIATED** This procedure is similar to the restricted procedure but allows for post tender negotiations. In most cases an OJEU notice must be published. However, in certain strictly construed circumstances, prior publication of an OJEU notice is not required.
- COMPETITIVE DIALOGUE** This procedure is used when a complex or innovative solution is sought and must commence with a call for expressions of interest.

Table 13

OPEN PROCEDURE	Publish notice, issue tenders to all, receive tenders.	
RESTRICTED/NEGOTIATED	Publish notice, get response.	Tender issue/return.
COMPETITIVE DIALOGUE	Publish notice, seek response	Issue clarification to all

In restricted or competitive dialogue the criteria may be based on the objective needs of Council to reduce the number of candidates to a level which is justified. However, the number of candidates selected shall take account of the need to ensure adequate competition.

3.4 Service Contracts

Exclusions

The following services have specifically excluded under the Directive:

- Contracts for the acquisition of land, existing buildings or other immovable property
- Contracts for arbitration and conciliation services
- Contracts for the issue, sale purchase or transfer of securities or other financial instruments
- Employment contracts: and
- Research and development service contracts

3.5 Two tier application – priority services and residual services

For the purposes of applying the rules of the EU Procurement Directives, service contracts have been split into two classifications (i) priority services, to which the full rules apply: and (ii) Non-Priority Services to which only a limited set of rules apply. These are listed earlier in this document.

3.6 Reduced rules for residual services

For residual services, only the rules on standards and on publication of an award notice apply. Residual services do not need to be advertised in the OJEU prior to tendering.

3.7 Derogations from the requirement to publish a call for completion

The EU Procurement Directives only allow use of derogations in the situations described below. The derogation must be strictly construed and used in exceptional circumstances only.

Appendix 3 outlines the occasions when derogations can be considered.

3.8 OJEU EU Notices

To ensure fair and open competition, the Directive requires Council to advertise its purchasing requirements by placing notices in the OJEU. In the case of supply, works or service contracts the call for competition may be made either by means of a periodic indicative notices (see Annex 15A) or by means of a notice on the existence of a qualification system (see Annex 14) or by means of a contract notice referred to in annex 13A, B or C. The form and manner of publication of notices is governed by Article 44 of the Directive and the relevant Annexes (Annex 13, 14, 15 and 16) and reference should be made to this Article and these Annexes before notices are published. Moreover it is a requirement of the Directive that Council must ensure that they are able to supply proof of the dates on which notices are despatched – see Article 44(6)

Prior Indicative Notice (PIN)

This is a notice giving estimates of planned procurements. The purpose of these notices is simply to draw forthcoming contracts to the attention of interested suppliers.

The following contracts must be included in the PIN:

- Works contracts of €5,225,000 or more: and
- Supplies and Services contracts of €209,000 or more.

PIN Notices may also be used as advance notice of future calls for competition and as a call for competition, the notice must refer specifically to the actual contract, and indicated that the contract will be awarded by the restricted or negotiated procedure (see Tendering Procedures below) without a further publication of a call for competition.

All interested parties responding to the PIN must be asked to confirm their interest on the basis of detailed information on the contract, prior to the drawing up of the bid list.

Publication of a PIN covering a particular purchase may in certain cases also permit the procedure to be shortened.

(i) Restricted Notice

Where Council wants to operate a system of selecting suppliers for actual tender contracts, a notice must be published giving details of the selection systems.

The rules and criteria for selection must be made available on request to interested suppliers and contractors, and so must be prepared in advance of the publication of the Notice.

A restricted System Notice may also be used as a call for competition, and the same rules will apply as for a PIN Notice.

Where a call for competition is made by way of a notice on the existence of a qualification system, tenderers in restricted and negotiated procedures must be selected from the qualified candidates.

Selection criteria can be grouped under the following headings:

- Economic
- Financial
- Technical

When Operating a Selection System, Council is required:

- To use objective criteria that does not discriminate between contractors and to make these criteria available to interested parties on request.
- To communicate any updated criteria to interested parties.
- Not to impose administrative, technical, or financial conditions on some contractors that are not imposed on others.
- Not to ask for tests or proofs when objective evidence of these is already available.
- To notify contractors when their qualification is being brought to an end for reasons based on the stated criteria.

Applicants who do not satisfy the criteria will be refused selection and an agreed number of successful candidates will be allowed to tender. In such circumstances, the applicant must be notified accordingly and the reasons for its rejection must be given.

(ii) Call for Competition Notice

This is used to invite interested suppliers for individual contracts as and when they occur. The notice must specify which type of tendering procedure is going to be used.

NOTE: Where any tender is the subject of EU funding this should be noted in the notice in the Official Journal of the EU.

(iii) Award Notice

Within forty eight days of awarding a contract, a notice giving details of the award must be published in the OJEU.

Under any Framework Agreements, an Award Notice must be published for its establishment.

3.9 Advertising in Other Publications

Council may not advertise contracts elsewhere prior to dispatching a notice to the OJEU and any such advertisements must not contain information additional to that included in the OJEU notice.

3.10 Debriefing and Giving Reasons for decisions

Suppliers and contractors who have participated in a bid for contracts covered by the EU Procurement Directives should have access to relevant information concerning the selection of the winning bid and the criteria and rules relating to contract award procedures.

- Candidates or tenderers should, where practicable to advise as to whether or not a decision has been taken either to award a contract or to cancel or re-advertise the contract within 15 days of receiving a written request.
- All unsuccessful tenderers should be advised in writing of their failure to succeed in a given contract award procedure within 15 days of contract award.
- Candidates or tenderers should be advised within 15 days of Council receiving a written request, of the reasons for their elimination from a bid list or of the reasons for rejection of their tender: and
- In the case of an eliminated tenderer, the reasons for his rejection and the relative advantages of the tender selected, as well as the name of the selected tenderer should also be provided.

3.11 Record Keeping

Records need to be kept justifying all the decisions taken in appointing a particular supplier or contractor. Records must be kept for a minimum of seven years from the date of the contract award. All relevant paperwork relating to the EU co funded projects must be retained for a minimum period of twelve to twenty four years after the closure of the programme.

In particular, in respect of all tenders above the EU thresholds, Council needs to record:

- The reasons for using other than EU standards.
- The qualification and selection of economic operators and the award of contracts.
- The use of procedures without a prior call for competition by virtue of Article 40(3), or directives 2004/17/EC.
- The non-application of the rules and/or procedures by virtue of the derogations (2004/17/EC).
- Council shall take appropriate steps to document the progress of award procedures conducted by electronic means.

Timescales for Procedures

The following minimum timescales apply to seeking expressions of interest and for the receipt of tenders. For capital requirements and for other complex requirements an adequate time should be given to tenderers to prepare their bids.

Table 14

Procedures	Receipt of Expressions of Interest	Receipt of TENDERS
Open National	N/A	14-21 days
Restricted National	14-21 days	14-21 days
Open EU via eTenders (where notice sent and tender docs available electronically)	N/A	40 days
Restricted EU via eTenders (where notice sent and tender docs available electronically)	30 days	35 days
Open EU (PIN) via eTenders (where notice sent and tender docs available electronically)	N/A	10-24 days
Restricted EU (PIN) via eTenders (where notice sent and tender docs available electronically)	30 days	17-31 days
Competitive dialogue using eTenders for notice	30 days	At least 10 days
Negotiated Procedure with Call for Competition using eTenders	10 days	At least 10 days
Accelerated Restricted using eTenders for notice	10 days (*15 days for Utilities)	10 days
Contracts awarded within framework agreements (mini Tenders)	N/A	At least 10 days

EXCLUSIONS

The Directive rules and regulations do not apply to contracts awarded for the purpose of resale or lease to third parties (provided Council enjoys no special or exclusive rights to sell or lease the subject of such contracts and other companies are free to see or lease it under the same conditions as Council).

Mixed Services

Contracts which have as their subject matter priority and non-priority services should be assessed in the following manner: Where the value of priority services is greater than the value of non-priority services then the contracts are to be awarded in accordance with the rules governing priority services. Where the value of the non-priority services are great than the value of the priority services then the contracts are to be awarded in accordance with the rules governing non-priority services.

APPENDIX 4 – CONSULTANCY SERVICES GUIDELINES

4.1 Background

These guidelines have been prepared to assist managers in assessing the need for engaging external consultants to support the work of their departments or business units and to advise them on the procurement procedures which should be followed.

Essentially a consultant is a person (other than an employee) agency or firm engaged for a limited period of time to carry out a specific finite task. Consultants transfer skills and/or expertise to Council, where Council does not possess these in-house or where an independent assessment is to be made. This may take the form of, for example, organisational change, project evaluation, technical skills, engineering advice, procedural audit, research, solution development etc.

4.2 Deciding to Engage Consultants – Guiding Principles

The knowledge and expertise for the resolution of important problems is very often available within the business unit or within Council or from other less expensive sources than external management consultants. The possibility of availing of such alternative resources should be considered prior to considering engaging external consultants.

The use of external consultants may be desirable in certain circumstances e.g. where:

- Specialised knowledge, not available within Council is required for a temporary period.
- The need for objectivity/independence is deemed essential
- A consultancy study is required by an outside body e.g. DOT/EU.
- A specialist project or study must be completed within a very short timeframe;
- Where the specialist knowledge and expertise is available within the company but would have to be diverted from essential duties to carry out the work.

Value for money considerations should be paramount in considering whether or not to engage consultants. The Project Manager should compare and document the tangible and intangible benefits to accrue to the company against the likely cost. Managers should be satisfied before deciding to engage consultants that the benefit will outweigh the costs.

Consultancy projects by their nature are expensive and, if not managed, can run for weeks and, in some cases, months longer than initially projected. In addition, consultancy companies often have a vested interest in extending the scope of the project, resulting in additional business to them and cost to Council. For this reason, projects must be actively managed by the project Owner.

The Project Manager should bear in mind that big does not always mean best in the world of consultancy. Many small consultancy firms with low overheads exist with

specialist knowledge in key areas. Small consultancy firms should not be overlooked in favour of the larger companies with higher public profiles.

The Project Manager should ensure that a business case is prepared for their approval prior to engaging consultants. The business case should include the following:

- Purpose of project/work and how it fits with strategic objective of the business unit, department or company.
- Defined scope of project/work
- Specification of the deliverables expected to result from the project/work including any future cost saving with associated time frames.
- Possible interface of work to be carried out by the consultant with other projects.
- Evaluation of all possibilities of carrying out the project/work other than by engaging external consultants.
- List type and level of specific skills required from consultants.
- Outline of how the project/work will be managed.
- Division of duties between Council & consultant staff to minimise cost where appropriate.
- Estimated costs of engaging consultants. A definitive budget should be agreed from the start.

Managers should also ensure that the consultancy work is provided from within an approved budget.

4.3 Procurement Process

Council Procurement Policies & Procedures, the EU Procurement Directives, Government Guidelines for State Bodies and the Department of Finance Public Procurement requirements apply to all purchase including the purchase of consultancy services. All consultancy projects are subject to the appropriate competitive tender procedure and contract award approval procedure. (See appendix 3). An appropriate legal contract to support the consultancy should always be employed. As a consultancy is a service the EU Threshold of €209,000 applies.

A Project Brief, Specification or Scope of Work should be prepared by the relevant department. This should include:

- A Background information on Council and on the proposed project or work
- A statement of the problem and the issues to be solved.
- The boundaries of the project or work.
- The objectives to be achieved and/or the tasks to be performed.
- The specific deliverables Council expect from the project/work.
- The likely skills required to carry out the project/work effectively
- Reference to any constraints e.g. time limits etc.
- An outline of Council's own contribution and input to the project.

- How the project/work will be managed.

The Procurement Section will assist in:

- Specifying the award criteria and weightings to be used in awarding the contract.
- Preparing legal conditions of tendering and contract. While Standard Conditions of Contract approved for use by the Council may be utilised in consultancies requiring production of a study or report, such standards should not be employed where the remit of the consultant is more extensive.
- Determining the appropriate pricing methodology for bidders (see below under Payments).
- Setting an appropriate time frame for issue and return of tender documents
- Preparing a commercial evaluation following receipt of bids.
- Channelling clarifications to and from the bidders during the tendering process.
- Organising clarification/negotiation/presentation meetings with the bidders.
- Developing an agreed scoring methodology in line with the award criteria.
- Preparing the contract Award Recommendation for signature.
- Advising on the consultants requirement to comply with relevant company procedures and guidelines in respect of Health & Safety, code of ethics, confidentiality etc.

Adequate time should be allocated for the preparation of documents, carrying out the appropriate tendering process and for securing the appropriate approval as outlined above.

All advertisements and tender documentation must state that it will be a condition for the award of the contract and for payment that a firm or individual must comply with the terms for the Department of Finance Circular 22/95 in relation to Tax Clearance Procedures for Public Sector Contracts, see Appendix 7.

Managers should be aware that:

Consultants will frequently seek to extend the scope of project or work to be carried out. The consultancy should not be permitted to extend beyond the scope of the project or work identified at the outset.

Consultants presenting and “selling” their services will not always be the same as those actually carrying out the work. Where possible consultants carrying out the work, should be asked to attend any presentation of proposals as well as the lead consultant.

4.4 Payments

The price to be paid to the consultant should normally be a fixed contract price (derived from the per diem rates offered by the consultants) and should incorporate the linking of payments to the successful completion of tasks, milestones or project stages. This encourages completion of the project or work on time and to budget.

Where possible, payments on an open ended per diem rate should be avoided and this should be avoided and this should only be considered for minor tasks requiring a few days consultancy support.

4.5 Thresholds

For ad-hoc consultancy under €5,000 a vendor may be selected by the Project Manager based on a written quotation and on the basis of the consultant's availability & expertise in the area.

For consultancy costing from €5,000 to €25,000 a minimum of three quotations shall be sought following receipt of a Specification, Brief or Scope of Work from the Project Manager.

4.6 Project Management

Project Management is an essential element of any consultancy contract. A project manager or project management team with a clearly defined role should be appointed and assigned responsibility for the day to day management of the project/work. The role of the project manager/team should be to:

- Monitor the performance of the external consultants.
- Anticipate/resolve any problems as they arise at an early date.
- Minimise the amount of time needed by consultants to learn about the functions and operation of Council.
- Ensure any information to be provided by Council is provided in a timely manner.
- Reduce the need for consultants to be engaged for similar work in the future.
- Ensure projects do not overrun in time or cost.
- Ensuring payments are properly approved.
- Report progress on a regular basis to the Director of Services/Project Owner.

ANY QUERIES IN RELATION TO THESE GUIDELINES SHOULD BE REFERRED TO THE PROCUREMENT MANAGER.

APPENDIX 5 – RISK MANAGEMENT

5.1 General Policy

One of the primary objectives of any contract entered into on behalf of Council should be the minimisation of risk to the Council. To ensure this, the following principles should be applied.

5.2 Risk Management Process

Risk Management is the complete process involved in identifying risks, assessing them for likelihood and potential impact, and developing suitable strategies to eliminate the risks or reduce their impact.

A formal Risk analysis should be carried out by the Project- Manager for all contracts.

As a minimum, a Risk Register for the contract should be drawn up. This Risk Register should include:

- A list of all identified risks
- The severity of each risk in terms of its likely impact on cost and time
- The person responsible for managing each risk
- The preferred risk mitigation strategy
- The estimated contingency sum to be set aside to cover risks identified.

5.3 Risk Management and Minimum Requirements

In order to ensure maximum benefits and efficiencies to Council from its tendering procedures, suppliers, contractors and service providers will be required to meet the following minimum criteria:

- They must (where appropriate) have the technical capacity in the areas in which they wish to do business with Council.
- They must provide evidence of financial stability.
- They must provide at least three satisfactory references, (including bank references).
- They must provide a history of any arbitration proceedings in which they have been involved in the last three years.
- They must provide satisfactory accident history in the last three years.
- They must be able to demonstrate acceptable health and safety procedures.
- They must provide details of instances over the previous three years in which they have been the subject of claims for failing to perform a contract.
- They must be in possession of a valid C2 Certificate. Tax Clearance Certificate, of Statement of Suitability from the Revenue Commissioners.
- They must hold satisfactory levels of insurance.

5.4 Safety

All tender and contract documentation and all materials and services supplied must comply with the all safety standards as referred to in tender documents. In particular:

Safety or operationally critical materials should be subjected to technical assessment prior to any award of contract.

Safety or operationally critical purchases should only be awarded to suppliers that have proven and acceptable management systems or standards for health, safety and quality.

5.5 Conditions of Contract

All orders must be placed in accordance with either:

- Standard Conditions of Contract approved for use by the Law Agent.
or
- Customised Conditions of Contract as drafted and approved by Council Law Agent. Standard conditions of Contract may only be used in accordance with the accompanying user checklist and in situations where the following criteria are met
 - The contract must be a discrete project which does not involve interface with any other projects.
 - The contract must not involve significant risk to the profile of Council.
 - The contract must not involve significant risks to the health and safety of personnel engaged in the project.
 - The contract must not involve the use of safety critical equipment.
 - The contract must not relate to goods or services for which specific regulatory licenses or consents are required.

5.6 Insurance Provision

- Contractors and suppliers must, at a minimum, have adequate Public / Product Liability insurance and Employer's Liability Insurance and where appropriate in the case of works contracts, Contractor's All Risks Insurance. An order may not be placed with a contractor until the relevant insurance documents have been approved. Where a specific insurance policy is required to be put in place for a particular contract, it is the responsibility of the Procurement Section in the subsidiary company to ensure that the necessary insurance is in place before issuing the purchase approval.
- The Procurement Section is responsible to determine the level of insurance cover required in line with the levels agreed with Insurance Adviser / Broker. In the event of a proposal to deviate from these levels, or where uncertainty exists, then the Procurement Section will consult with the Insurance Advisor.

5.7 Government Regulations

Contractors and suppliers must comply with all relevant governmental regulations including Tax Clearance Requirements, Constructions Payments Procedures and Safety and Employment legislation and regulations. It is the responsibility of the relevant Procurement Section to ensure that these requirements are satisfied before executing the contract or issuing the purchase order.

5.8 Long Term Contracts

Where a contract is of long-term duration (i.e. more than 12 months) it is the responsibility of the Procurement Section, or their nominee, to ensure that insurance and relevant certificates are kept current. In particular, no payment may be made on foot of a contract unless the payee's Tax Clearance Certificate (or C2 Certificate or Statement of Suitability, as appropriate) is current.

5.9 Risk Control for Major Capital Projects

In major capital projects involving a high level of interface between contractors and disciplines, a Project Team shall be appointed to oversee successful execution of the project. The Project Team shall include technical, financial, procurement and legal representatives nominated by the Project Owner and shall convene as necessary during the operation of each major capital project.

For major capital contracts the following measures should be implemented as a minimum.

- **Financial Appraisal of Supplier and Contractors**

Suppliers and contractor who are being considered for award of a contract should be assessed to ensure they are financially sound and have sufficient financial resources to carry out the contract. The contractors should be evaluated in accordance with the financial criteria identified in the tender documents. The following actions should be taken as a minimum:

- A financial analysis from a recognised financial agency covering financial strength, risk rating and indicative credit rating.
- Where the analysis rating is less than satisfactory and where the Procurement manager deems it appropriate, a detailed evaluation of three years accounts and auditors reports should be carried out, prior to award of contract, to confirm the supplier/contractor has adequate financial resources to fulfil the contract.
- Reviews shall be carried out by the nominated delegate or by an external body approved by the Head of Finance.
- Reviews shall consider, inter alia, the turnover of the company/division against the value of the contract, and the company/division cash flow.

- **Performance Security**

The following table sets out the Bond/Guarantee requirement of Council in relation to contracts. Further guidance on the bond/guarantee requirements of Council may be obtained from Appendix 9 *Guidelines on Bonds and Guarantees*.

Table 15

Bond Type	Contract
Advance Payment Bonds	Any advance payment to a Contractor in excess of €5,000 must be secured by an Advance Payment Bond
Performance Security Bonds	All capital projects and construction contracts should be secure by an On-demand Performance Security Bond which should be not less than 10% of the contract value
Parent Company Guarantee	In all projects, a Parent Company Guarantee must be obtained where the Contractor is a subsidiary of another company
Retention Bonds	In all capital and construction contracts the Project Manager will decide whether to opt for Retention Bond to the value set out in the legal contract

Where the Project manager decides, for sound commercial reasons, to derogate from the policy of Council setting out the situations where an bond or guarantee will be required and the form of bond or guarantee required, he can do so provided the derogation is approved by Director of Service and is formally notified to the approving Authority for Contract Award in accordance with the project Value.

Where possible, the decision to derogate from the policy of Council in relation to bonds and guarantees shall be taken at the earliest opportunity to ensure that all tenderers are aware of the requirements of Council in this regard before submitting their respective tenders.

- **Liquidated Damages**

Liquidated damages provide a means of recovering losses due to breach of contract, in particular the delay in completion of a contract or the failure to meet performance requirements. The following procedures should apply.

- All capital contacts shall included Liquidated Damages clause
- The Liquidated Damages specified shall be a genuine pre-estimate of the actual loss that will be suffered in the case of a breach.

Legal advice should be sought where liquidated damages are to form part of a contract. If the liquidated damages constitute an attempt to impose a penalty, the clause will be unenforceable.

- **Interest Recovery**

- Capital contracts may include an Interest Recovery clause where appropriate as determined by the Procurement Section.

- **Insurance**

All capital contracts must be covered by adequate insurance

- The insurance requirement, including level of cover, shall be agreed between the Procurement Section, Council Insurance Brokers. The insurance may be taken out by either Council or by the Contractor
- The Procurement Section shall be responsible for ensuring insurance is in place before the contract commences, and for ensuring that policies are maintained throughout the life of the contract by maintaining a Register of Insurance.
- Council's insurance broker shall be required to review to approve contractor's insurance policies.

APPENDIX 6 - PAYMENTS MADE UNDER PUBLIC SECTOR CONTRACTS

The Department of Finance issued requirement in relation to public sector payments in 1995. These are mandatory for all expenditure.

Scope:

- Buying, hiring or leasing goods, services or property
- Generally expending public money.

Table 16

Contractor Defined	Any individual, partnership or company in receipt of payments of €10,000 or more over a 12-month period. Not confined to written contracts.
Contractors (in any 12-month period):	
Total of payments exceeds €10,000	Valid Tax clearance or C2 certificate must be received and filed by Council. These certificates are normally valid for 12 months and applicants have 10 working days to supply the relevant forms.
Subcontractors (in any 12-month period):	
Total of payments between €650 and €2,500	Tax reference number should be kept by the main contractor and be available for inspection by the Revenue Commissioners and where appropriate should be reviewed by Council to ensure the contractor's compliance with these requirements.
Total of payments exceeds €2,500	Tax clearance certificate or a current C2 certificate should be kept by the main contractor and where appropriate should be reviewed by Council to ensure the contractor's compliance with these requirements.
Total of payments exceeds €10,000	Valid Tax Clearance or C2 certificate must be received and filed by Council. These certificates are normally valid for 12 months.
C2 not supplied	If in construction, forestry and meat processing deduct 35% at source even if tax clearance cert is given.

Since January 2012, further requirements apply to log all contracts with revenue and therefore log all payments, from which the Revenue Commissioners will decide on what amount is to be deducted under RCT.

APPENDIX 7 – CONTRACT AWARD RECOMMENDATION

This form must be completed in respect of all contracts with an estimated value of €50,000 or more for works of €25,000 for Supplies and Services.

(1) CONTRACT DETAILS
(to be completed by the Procurement Manager or nominated delegate)

Contract Description			
Advertisement details / reference			
Department:		Cost Code nr.	
Tender Tracing No		Nr. of respondents	
Number of Tender enquiries issued:		Nr. of tenders received:	
Recommended Supplier		Contract Value <small>NET of VAT</small>	
Background and details of Contract			

Prepared by Name _____ Date _____

(2) **TENDERS RECEIVED** (to be completed by the Procurement Manager delegate)

SUPPLIER / CONTRACTOR	TENDER PRICE	FINAL OFFER

(3) RECOMMENDATION

Function	Statement	Signature	Date
Technical / Project / Project Manager [Job title]	Recommended tender complies with the specification/performance and safety requirements. Recommended contractor has the experience, expertise and technical resources to fulfil the contract.		
Finance [Job title] Contractor financial	Contractor can be accommodated within approved budget for this Contract. The recommended contractor has the necessary financial resources to fulfil the contract.		
Procurement [Job title]	Confirming that standard contract documents have been used for this contract**		
Procurement [Job title]	The Procurement Policies and Procedures have been complied with.		

* No signature required where standard contract documents, without amendment, have been used.

** Signature required only where standard contract documents, without amendment have been used.

(4) OFFICERS STATEMENT (Capital Projects only)

- Recommendation is acceptable and the recommended contract meets the overall goals of the project

I approve this submission and recommend the award of contract

Name	Signature	Date
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(5) **APPROVAL** - (Note: Blank out the signature boxes that are not required before printing or manually delete. Please refer to section 4.4 of Council Policies and Procedures.

	Name	Signature	Date
Director of Service approval (1) (for contracts with an estimated value of up to EU Limit)			
Chief Executive approval (for contracts with an estimated value of over EU Limit recommended by Procurement Manager)			

Note:

- Each section should be completed in sequence. In particular Section 5 should not be completed until sections 1-4 have been completed in full.
- For recommendations requiring Chief Executive approval (ie over EU Limit), the approval / Endorsement 2 in Section 5 must be signed by the relevant Director of Service or their nominated delegates.
- Sections 1-4 should be completed in advance of any contract award submission to Chief Executive.
- The contract award sign-off requirement are as prescribed by the Council Procurement Policies and Procedures.

APPENDIX 8 – GUIDELINE ON BONDS AND GUARANTEES

8.1 Introduction

- 8.1.1 For the purpose of Council policy on bonds and guarantees, a bond may be described as a written agreement in which the first party (the “surety”) agrees to make good losses (up to a capped amount) suffered by a second party (the “Client”) due to the non-performance of a third party (the “Contractor”) of its contractual obligations.
- 8.1.2 A guarantee can be described as an obligation on one party (i) to carry out the obligations of another party; or (ii) to make good the losses suffered by a third party, arising due to the non-performance by another of that party’s obligations.

8.2 Purpose of bonding

- 8.2.1 A bond provides that Client with a measure of protection against breach of contract and/or non-performance by the contractor of its contractual obligations. To obtain a bond, the Contractor will usually have to provide financial security to the Surety. As this security may be forfeited by the Surety in the event of the “calling in” of the bond, there may be an added incentive for the Contractor to properly perform its contractual obligations. Furthermore, if the security provided by the Contractor to the Surety (to obtain the bond) includes parent company guarantees or personal guarantees by the directors of the Contractor, this incentive to perform will be enhanced. In this way, bonds provide protection of public investment.
- 8.2.2 In considering whether a bond is necessary in a particular contract it should be remembered that, invariably, the cost of obtaining the bond by the Contractor is passed on to the Client in the contract price. Consequently, it may be worthwhile to consider if payments to Contractors in specific projects may be managed in such a way that the risks to the Client are less than bond premiums. Secondly, bonding requirements may restrict bidding. Capable smaller companies, for various reasons, may not be able to obtain the level of bond sought and thus be prevented from tendering.

8.3 Types of Performance Security

The following types of performance security are used by Council

- Advance payment bonds.
- Parent company guarantees.
- Performance bond/contract guarantee bonds
- Retention and retention bonds
- Directors guarantees

8.4 Advance Payment Bonds

- 8.4.1 Where possible, Council should avoid advance payments. Where it is not possible to avoid advance payments, such payments under a contract should be secured by an on-demand advance payment bond issued by an approved bank or insurance company. Advance payments should not be made on a project unless and until the

advance payment bond is received. Legal advice should be obtained from the Law Agent where an advance payment bond is proposed.

- 8.4.2 Where the advance payment reduces with time, e.g, stage payments made against goods delivered under a contract, then the value of the advance payment bond should reduce to reflect the outstanding amount of the advance payment.
- 8.4.3 The Head of Finance should in the first instance approve any advance bond and shall be responsible for holding all advance payment bonds and returning them to the Surety on expiry. The Head of Finance, in agreement with the Budget Holder and the Law Agent, shall be responsible for calling in any advance payment bonds.
- 8.4.4 The Budget Holder shall confirm that the advance payment bond will not expire to the works or services, to the value of the advance payment bond, having been carried out. Where delays occur, the Budget Holder shall advise the Procurement Section in a timely fashion to allow him to evaluate the situation and to obtain extensions to the advance payment bond, as appropriate.

8.5 Parent Company Guarantees

- 8.5.1 Council should ensure that it deals only with entities which can demonstrate sufficient financial, administrative and technical status and competence to complete the specific contract contemplated. Where it is proposed to enter into a contract with a subsidiary company, a decision should be made either it would be more appropriate to enter the contract with the parent company or to obtain a parent company guarantee. Legal advice should be obtained from the Council Law Agent in this regard.
- 8.5.2 A parent company guarantee is given by a parent company (or holding company) to guarantee either (i) the proper performance of a contract by one of its subsidiaries or (ii) to make good any losses suffered by the Contractor's contractual counterparty. Because the financial strength of the parent company may be linked to that of the Contractor, a parent company guarantee will only be acceptable if the parent company (holding company) is financially strong in its own right and its financial resources are largely independent of those of the Contractor.
- 8.5.3 Under a "performance" parent company guarantee, the parent company is obliged to complete the contract. Costs for completion are borne by the parent company. In addition, further recompense may also be sought for the other losses following from the default through the normal clauses incorporated in the contract. In most circumstances, a well drafted parent company guarantee will include both a performance guarantee and a financial guarantee.
- 8.5.4 The Conditions of a parent company guarantee will usually give the parent company the opportunity to remedy any default within a period of notice before the guarantee is called.

8.5.5 The parent company guarantee should not be regarded as an alternative to other forms of performance security but rather as a form of security necessary where Council is dealing with a subsidiary and additional to other traditional forms of performance security.

8.5.6 In the absence of other forms of performance security, personal or directors guarantees should be considered but must be approved in consultation with Irish Public Bodies Mutual Insurance and Law Agent.

8.6 Performance Security Bonds

8.6.1 There are two types of performance security bond commonly requested by Council:

- Unconditional on-demand Bond or Bank Guarantee.
- Performance or Surety Bond.

8.6.2 The decision as to which form of performance security bond to request from a Contractor in respect of a particular project is one which must be made by the Budget Holder of the project. Legal advice should be obtained from the Law Agent.

8.7 Unconditional On-Demand Bond or Bank Guarantee

This form of bond or guarantee provides for an unconditional obligation to pay the Client. Such a bond or guarantee is usually payable on presentation of a written demand by the Client to the Surety without having to establish any breach of contract. However, recent cases suggest that a simple demand in all circumstances will not be sufficient. (e.g., if the Client is acting frequently or in bad faith).

8.8 Performance or Surety Bond

8.8.1 There are two forms of performance or surety bond – the conditional default bond and the conditional demand bond.

8.8.1.1 A Conditional Default Bond may be called upon only following a serious breach by the Contractor of the agreed terms and conditions of the contract. A serious breach would include insolvency of the contractor. With this form of bond, the contractor must default in the performance of a specific contract, the bond is then payable only when a breach of contract is established and the damages proved. This necessity to prove both breach of contract and damage can be onerous for the Client.

8.8.1.2 A Conditional Demand Bond may be called upon at the discretion of the Client if agreed conditions for calling are met. These conditions are set out in the bond. This form of bond differs from conditions are set out in the bond. This form of bond differs from the unconditional demand bond or bank guarantee in that these latter forms of bond allow the Client to call upon the bond at any time and without the requirement to show that a particular condition has been breached.

8.8.2 Calling upon a conditional bond, whether default or demand, is fraught with difficulties for the Client. Any attempt to call upon the conditional bond will be vigorously challenged by the Contractor. It would be unusual and unlikely that the

issues raised during the challenge could be settled without the need to resort to arbitration and/or court proceedings.

8.9 Retention and Retention Bonds

- 8.9.1 The traditional retention system is to withhold a percentage of the contract price from payments made during the course of the contract to accumulate a fund that is available to the Client if the Contractor fails to rectify defects in accordance with the contract (usually 5.0 % of the value of the Contractor's work up to practical completion and reducing to 2.5% during the defects liability period e.g., the 12 months following practical completion).
- 8.9.2 A retention bond allows for the payment of the entire retention fund to the Contractor on execution of the retention bond. The retention bond provides that if the Contractor does not make good any defects which arise during the defects liability period that the Surety will / with (i) make good any defects arising, or (ii) make good any losses suffered by the Client.
- 8.9.3 Usually, the first half (in legal terms as "moiety") of retained monies is paid to the Contractor on practical completion and the second half of the expiry of the defects liability period. The cost of that anticipated cash flow loss is reflected in a Contractor's tender pricing. Retention bonds give Contractors better and more certain cash flow through full payment at all stages, by the non-deduction of retention monies. However, if a Contractor defaults in its obligations to remedy defects, the client is in a stronger position when it holds actual retention monies rather than a retention bond.
- 8.9.4 The Budget Holder in consultation with Law Agent, Irish Public Bodies Mutual Insurance and Head of Finance will decide in each contract whether to opt for retention monies or to accept a retention bond from the Contractor.
- 8.10 Bond/Guarantee Requirements of Council
The following table sets out the Bond/Guarantee requirement of Council in relation to contracts.

Table 17

Bond Type	Contract
Advance Payment Bond	Any advance payment to a Contractor in excess of €5,000 must be secured by an Advance Payment Bond.
Performance Security Bonds	All capital projects and construction contracts should be secured by an On-demand Performance Bond which should be not less than 10% of the contract value.
Parent Company Guarantee	A Parent Company Guarantee must be obtained where the Contractor is a subsidiary of another company and would not have satisfied the selection process employed by Council without reliance on the financial, technical and/or administrative resources of the parent company.
Retention Bonds	In all capital and construction contracts, the Budget Holder will decide whether to opt for retention monies or an On-demand Retention Bond to the value set out in the contract.

8.11 Derogations from Bond/Guarantee Requirements

- 8.11.1 Where the Project Manager decides, for sound commercial reasons, to derogate from the policy of Council setting out the situations where a bond or guarantee will be required and the form of bond or guarantee required, he can do so provided the derogation is approved by the Director of Service and is formally notified to the approving Authority for Contract Award in accordance with the project value.
- 8.11.2 Where possible, the decision to derogate from the policy of Council in relation to bonds and guarantees shall be taken at the earliest opportunity to ensure that all tenderers are aware of the requirements of Council in this regard before submitting their respective tenders.

APPENDIX 9 - CONTRACT VALUATION

9.1 Estimating the Value of Contracts

- The estimated value is based upon the total amount payable net of VAT
- Valid at the time when the contract notice is sent or at the moment when the award procedure commences.
- Inclusive of any form of options and renewals (i.e. a project done on a phased basis with an option held for a number of additional phases, is the total value of all phases; a one year contract with possibility of renewing on an annual basis for a period of two years, the value is the total of 3 years).
- The value of a framework agreement is the total value of all contracts likely to be awarded over the lifetime of the framework agreement. This should be included in the contract notice.
- No subdivision of requirements may be used to prevent it coming under the scope of the Directive.
- Regarding contracts awarded in lots, account should be taken of the total estimated value of all lots.
- Regarding design competitions, the total value of prizes and value of any subsequent follow-on contracts should be taken into account.

9.2 Waivers of Lots

The value of contracts awarded in separate lots at the same time should be aggregated for the purposes of applying the directive.

Possible Waivers:

- Lots (net of VAT) less than €80,000 for supplies and services
- Lots (net of VAT) €1 million or less for works
may be waived provided the aggregated value does not exceed 20% of the whole contract.

By invoking a waiver this does not mean you can ignore competitive tendering, but rather that the contract for the particular lot(s) can be awarded according to the applicable rules for the contract in question outside the Directive.

EXAMPLE

Award of a Contract for Design Team Services

Lot 1.	Architectural Services	€400,000
Lot 2.	Civil & Structural	€450,000
Lot 3.	Mechanical and Electrical	€300,000
Lot 4.	Quantity Surveying	€400,000
Lot 5.	Project Supervisor Design Process	€ 60,000
Lot 6.	Archaeology	€ 20,000
	<u>Total</u>	<u>€1,630,000</u>

20% €326,000

Therefore, waivers could be invoked for lots (5) and (6), and these lots could be awarded in accordance with appropriate rules national/local rules rather

APPENDIX 10 - POST CONTRACT AWARD ASSESSMENT

Contract Performance Assessment Report

DETAILS

Location:

Project Manager: Ph No:

Contractor / Supplier Name & Address:

Contract Title:

Contract Type (Works / Services):

Purchase Order Number:

Original Contract Price: €

Final Contract Price: €

Contract Completion Date:

Actual Completion Date:

Contract Completed? Y / N Are there any outstanding claims / litigation?
(please give details)

PROCEDURE

1. When a contract is completed the project manager responsible should fill out this assessment report form based on his / her own knowledge of the works / services or should obtain information from those able to objectively and accurately provide it. **The form may also be used as a means of reporting poor performance during contract.**
2. Completion of the form consists of filling in a score against each rating question, based on the following scoring system: 1 = Poor to 10 = Excellent. N/A = Not Applicable. Comments should be added wherever possible to expand upon the score given as specific details will prove useful to anybody wishing to employ this contractor / supplier in the future.
3. The completed form should be sent to the Procurement Section and a copy should be retained on the contract file. A centralised record of contractor / supplier performance will be maintained by Procurement. Feedback may be given to the contractor / supplier but the assessment form must not be disclosed.
4. This procedure is mandatory and applies to all contracts irrespective of value.

1. CONTRACT MANAGEMENT SKILLS

Score

Rate the adequacy and effectiveness of the resource levels and skills used by the contractor in managing the contract off site	
Rate the adequacy and effectiveness of the resource levels and skills used by the contractor in managing the contract on site	
Rate the effectiveness of the contractor's management of sub-contractors	
Rate the effectiveness of the contractor's industrial relations management practices	

Comments: (on any specific reasons for high/low rating above, list names of key contractors staff whose performance was exceptionally good or poor, giving details / reasons.

2. TECHNICAL / ENGINEERING

Score

Rate your satisfaction with the technical deliverables (ignoring time and cost overruns and after any defect correction)	
Rate the ability of the contractor to solve technical problems and avoid re-work	
Rate the effectiveness of the contractor's design capability / off-site technical back-up	

Comments supporting the above:

3. RESOURCES

Score

Rate the adequacy of the resources used on the contract (e.g. numbers, skill levels, contractor's plant etc.)	
Rate the extent to which the contractor's self-sufficiency in number and skills allowed your organisation's resource input (technical/contract management) to be kept to a minimum	
Rate how well the contractor demonstrated the extent and effectiveness of training given to personnel working on the contract	

Comments supporting the above:

4. PROGRAMME

Score

Rate the contractor's performance in meeting the agreed contractual milestones and completion dates	
Rate the effectiveness of the contractor in managing the programme (e.g. planning, adequacy of programmes submitted, effectiveness in updating and communicating progress etc.)	

Comments supporting the above:

5. COMMERCIAL

Score

Rate the extent to which you believe the contractor kept claims and requests for variations to the bare minimum	
Rate the extent to which the contractor was willing to agree reasonable price settlements for claims and variations (i.e. avoided taking advantage to increase profits)	
Rate the effectiveness of the contractor in commercial administration (e.g. promptness of price submissions, willingness to give price breakdowns, promptness and correctness of time sheets etc.)	
Rate willingness of contractor to provide accurate and timely information necessary to review credits and debits	
Rate contractor's ability to provide necessary insurance cover, bonds, tax clearance cert. etc.	

Comments supporting the above:

6. ENVIRONMENT

Score

Rate the extent to which the contractor complied with the requirements of the site / organisation's environment policy	
Rate the contractor's environmental practices and housekeeping in the working area	

Comments supporting the above: (including details of any deviations from good environmental practice e.g. excessive resource usage, waste production, uncontrolled discharges to land, water or air, noise, poor housekeeping etc.)

7. HEALTH & SAFETY

Score

Rate the contractor's ability to develop the Health & Safety Plan by carrying out risk assessment and ensuring that risks were adequately reduced or controlled	
Rate the effectiveness of the site management in implanting the Health & Safety Plan by consistently demonstrating that their personnel worked in a safe manner at all times	
Rate the extent to which the contractor applied sufficient resources to Health & Safety and demonstrated overall competence on Health & Safety Matters	
Rate the contractor's attitude to Health & Safety in respect of his willingness to provide information as requested, carry out instructions promptly and to communicate and co-operate with other contractors	
Rate how well the contractor demonstrated knowledge and application of your organisation's Contractor Safety Regulations	

Comments supporting the above: (including details of any near misses or accidents arising out of failure of safety management practices.)

8. QA & DOCUMENTATION

Score

Rate the contractor's compliance with the required quality standard (e.g. timely and adequate submission of Quality documentation including Quality Plans, compliance with submitted Quality documentation, timely notification of non-conformances etc.)	
Rate the extent to which the contractor has a continuous improvement culture	
Rate the extent to which the contractor kept non-conformances to a minimum	
Rate the extent to which technical documentation submitted was timely and of the required quality (including documents submitted during the contract work and at the end e.g. drawings, O&M Manuals etc.)	

Comments supporting the above:

9. ATTITUDE & RESPONSIVENESS

Score

Rate the extent to which the contractor and his/her personnel used their initiative	
Rate the extent to which the contractor was co-operative rather than confrontational (e.g. took a partnership approach and did not easily resort to the Conditions of Contract, responded well to, and was able to make constructive criticism, worked co-operatively with other contractors on site and site staff.)	
Rate how effective the contractor's flexibility / contingency arrangements were to deal with unforeseen problems, additional work or amended programme requirements	

Comments supporting the above:

10. GENERAL

Please give a summary on the overall performance of the contractor, highlighting in particular any areas where performance could be improved.

Signed:

Date:

Project Manager

NB: *This document should be forwarded to the Procurement Section and a copy should be retained in the contract file.*

APPENDIX 11

Sample Regret Letter PQQ Stage

Notification to Unsuccessful Candidates –Decision not to invite to tender

PUBLIC SECTOR AND UTILITIES

[Date]

Re: Application for _____ OJEU REF: _____

Dear,

Further to your application for the above competition, I wish to inform you that the evaluation of applications has now been completed.

I regret to inform you have not been successful in progressing to the next stage of the procurement process.

The reason(s) for the rejection of your application, in respect of the relevant criteria, are given hereunder:

*
*

Recommended Option: Please find overleaf your own scores under each criterion, in addition to those obtained by the lowest scoring candidate who succeeded in progressing to the next stage of the competition.

I would like to take this opportunity to thank you most sincerely for your application and to wish you every success in the future.

Yours.....

[on behalf of]
[name of contracting entity]

(Please see scores overleaf)

SCORES OBTAINED

	Selection Criterion	Minimum Standard Required (if any)	Maximum Score Available	Your Score	Score of the lowest scoring candidate invited to tender
(A)	Criterion A				
(B)	Criterion B				
(C)	Criterion C				
Total Score					

APPENDIX 12

Sample Regret Letter Tender Stage

**Notification to Unsuccessful Tenderers – Award Decision
PUBLIC SECTOR & UTILITIES**

[Date]

Re: Tender for _____ OJEU Ref: _____

Dear,

Further to your tender for the above, I wish to inform you that the tender evaluation process has now been completed. I regret to inform you that your tender has not been selected for contract award and is unsuccessful.

Please find hereunder a summary of the **reasons for** your tender being rejected, by comparison with the features and characteristics of the successful tender and against the various award criteria:

- **Criterion A**
The successful tenderer
- **Criterion B**
The successful tenderer
- **Criterion C**
The successful tenderer
- Etc.....

The name of the successful tenderer designate is _____

Optional: The scores awarded to your tender and to the successful tender respectively are shown overleaf.

Conclusion of Contract

It is anticipated that a contract will be concluded with the successful tenderer following the expiry of the **14 calendar-day Standstill Period** chosen for this contract in respect of notifications electronically.¹ This standstill period will commence on **the day after** the date of issue of this Notification. Following the conclusion of the contract, an award notice will be despatched to the Official Journal of the EU.

I would like to take this opportunity to thank you most sincerely for your participation in the competition and to wish you every success in the future.

Yours.....

[on behalf of]
[name of contracting entity]

¹ 16 calendar-days if notification is by post.

SCORES OBTAINED

Award Criterion		Maximum Score Available	Minimum Score Required (if any)	Your Score	Score of successful Tenderer
(A)	Criterion A				
(B)	Criterion B				
(C)	Criterion C				
(D)	Criterion D				
Total Score					

13 – Supplygov BUYERS GUIDE

See appendix 13 which has been uploaded separately.