

BROADCASTING AUTHORITY OF IRELAND

PROCUREMENT POLICY

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1. INTRODUCTION

The purpose of this document is to establish a framework for a common approach to purchasing in the Broadcasting Authority of Ireland (BAI).

Procurement of goods and services are conducted in accordance with the arrangements outlined in National and European procedures as follows:

- European Directive – 2014/24/EU (the “EU Directive”)
- Irish Regulations transposing the EU Directive – European Union (Award of Public Authority Contracts Regulations 2016) (the “Regulations”)
- Irish Guidelines:
 - [Guidelines on Competitive Tendering- Public Procurement Guidelines Competitive Process](#)
 - Circular 10/14 – Initiatives to assist SMEs in Public Procurement
 - Circulars 02/09 and 02/11 relating to ICT procurement
 - Circular 06/13 - Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service

All of these guidelines are available on www.etenders.gov.ie.

Please note that this document will be reviewed periodically as there is evolving European and domestic case law, European Commission communications and amendments to the EU and Irish legislation.

An efficient procurement strategy can contribute significantly to the business of the organisation and experience to date has shown that the implementation of a good procurement policy can lead to significant savings for the BAI.

A devolved procurement policy can only function where there is budget management at a functional level and expenditure profiles in the policy depend on the expenditure profiles in the budget.

1.1 Overview

“Procurement” is the term used by THE BAI to describe the function which provides support to purchasers in each function and which examines overall expenditure on goods and services, to ensure that value for money is being obtained throughout the BAI. Purchasing remains the direct responsibility of each budget holder.

1.2 Scope of the Policy

This policy covers all non-pay expenditure under the management of the BAI with the sponsorship payments and payments of grant awards.

It acknowledges the organisational structure of the BAI whereby budget responsibility is devolved to managers.

It is essential that all BAI employees who are responsible for expenditure in the BAI are familiar with this document along with the procedures for procurement.

1.3 Objectives of Procurement

- To ensure that value for money is achieved in all purchasing activity.
- To ensure that the BAI's procurement policies and procedures comply with statutory requirements, Irish and EU public procurement legislation and to ensure that staff members are familiar with and observe all public procurement guidelines and regulations as applicable to their role.
- To streamline, consolidate and, where possible, improve on purchasing practices.
- To utilise contracts put in place by the BAI to obtain value for money and better quality and service. This should also lead to a reduction in the number of suppliers to the BAI, thereby making savings in administrative time and costs.
- To enable the Finance function to streamline the invoicing process by matching invoices against Purchase Orders ("POs") and delivery dockets.

1.4 Procurement Principles

All financial matters involved in the purchasing of goods and services are governed by the financial policies and procedures of the BAI and all statutory requirements.

Purchasers should ensure that purchase orders are fully authorised before an order is placed with a supplier (see Section 2, "Purchasing Procedures").

Purchasers must ensure that the appropriate documentation is attached to an order before authorising it (see paragraph 2).

Official BAI purchase order numbers should be used for all authorised purchases. Purchase order numbers should be communicated to suppliers, with the instruction that the purchase order number should be quoted on their invoices to the BAI.

Budget holders should be aware that the auditors of the BAI and the staff of the Comptroller and Auditor General's office have full, free and unrestricted access to all procurement records within the BAI.

Budget holders should ensure that complete procurement records are submitted to the Procurement function for filing so that they are available for inspection at all times.

The ultimate authority for spending allocated budgets lies with the budget holders.

All budget holders are required to comply with Irish & EU legislation. Non-adherence to EU public procurement legislation can result in serious legal and financial sanctions for the BAI. Advice regarding this legislation will be provided by the Procurement function.

Where the BAI has put contracts/framework agreements in place, all staff are obliged to use them. This is particularly relevant where suppliers have been chosen as a consequence of EU tenders.

The standard payment terms for the BAI are 30 days on foot of a correct invoice. The BAI is required to comply with the Late Payments in Commercial Transactions Regulations 2012 and any other guidelines as set out by the Government¹.

BAI's purchased materials should be reviewed for opportunities for recycling, reusing, reducing consumption, reducing packaging of products or in purchasing alternative products that have less environmental impact.

The procurement of goods electronically (i.e. via the internet) is permitted but must comply with the normal procurement procedures.

Employees may not subscribe to electronic services or other contracts on behalf of the BAI unless they have the express authority to do so. Authority for subscriptions including electronic subscriptions rests with the budget holder, and no other BAI employee has the authority to enter into any binding commitment on behalf of the BAI via email or the internet.

The BAI is committed to applying Circular 13/13: The Public Spending Code: Expenditure Planning, Appraisal & Evaluation in the Irish Public Service - Standard Rules & Procedures as issued by the Department of Public Expenditure and Reform.

All goods and services purchased by or supplied on behalf of the BAI are required to be fully accessible by persons with disabilities. Where this is not practicable or justifiable on cost grounds or would result in an unreasonable delay to the purchase or the delivery of the service, a detailed explanation must be placed on the procurement file. This explanation must also contain details of any steps that need to be taken to overcome the difficulty in supply and the means by which the BAI or the supplier will ensure that persons with a disability can avail of the service.

1.5 The Procurement function

In realisation of the benefits to be gained from effective and efficient purchasing strategies and objectives, the BAI has provided the Procurement function to assist the budget holders who are ultimately responsible for procurement.

Procurement staff will assist budget holders involved in procurement to achieve value for money in respect of all goods and services, without diminishing the quality and service levels presently enjoyed. This support includes:

- putting in place organisation-wide contracts while ensuring compliance with BAI procedures and Irish and EU legislation;
- ensuring competitive prices are achieved with regular suppliers;
- ongoing supplier and contract management;

¹ Currently, BAI pays Creditors within 15 days, as set out in the EU / IMF Memorandum of Understanding

- advice on function-specific contracts;
- preparation and examination of tender documents and contracts prior to issuing to ensure that they comply with relevant policies and procedures; and
- overseeing / managing with tender processes.

For large expenditures, i.e., spend of €25k or more, the Procurement function must be notified at an early stage and will oversee the purchasing process to ensure compliance with procurement requirements. Where derogation from a recruitment process is being considered or where a sole supplier scenario might arise, the Procurement function must also be notified. However, advice and assistance will be provided by the Procurement function at any time on any purchase regardless of value.

1.6 Accountable persons

“Purchaser” is the staff member who is requesting the expenditure.

The budget holder is a manager who has responsibility for defined budgets within the overall BAI budget.

The ultimate responsibility for the budget lies with the Chief Executive.

1.7 Delivery

The normal place of delivery for all goods and services is the BAI offices at 2-5 Warrington Place, Dublin 2. Alternative delivery addresses must be agreed in advance of delivery with the budget holder. All delivery dockets must be checked and signed for and forwarded to Finance so that they can be matched to the purchase order and the invoice before payment is made.

2. PURCHASING PROCEDURES

Purchasing approval limits are set out in Appendix 1.

Purchases for goods and services over €150, (excluding VAT) require a purchase order (PO) to be raised.

2.1 Documentation required for purchase orders

2.1.1 Spend less than €5,000

One written quote must be attached to the purchase request.

2.1.2 Spend over €5,001

All new spend over €5,001 and €25,000 requires a call for quotes process. All new spend over €25,001 requires a formal tender process. A purchase order should not be raised until the procurement process has been completed and

the contract has been signed. A copy of the signed contract or a link to the scanned copy of the contract should be attached to the purchase request.

In the case of a drawdown from a framework agreement, a mini tender process is required for spend over €5,001. A link to the procurement folder containing the documentation relating to the mini tender process must be attached to the purchase request.

In the case of a drawdown from a central government contract, a link to the relevant information on the Office of Government Procurement website must be attached to the purchase request.

Budget holders are responsible for ensuring that the appropriate procurement process has been followed and the appropriate documentation is attached before approving a purchase request.

The purchase request must be approved by the budget holder in advance of the order being placed and before the expenditure is committed.

2.2 Retrospective purchase orders

Only in exceptional circumstances should a purchase order be raised retrospectively. In these cases, the person committing the expenditure should inform the budget holder before raising the purchase order. The purchase order must be raised and approved as soon as possible.

2.3 Reducing balance purchase orders

A reducing balance purchase order is raised when a contract is in place and many small purchases or frequent payment instalments will be made within the terms of that contract with the purchaser. It is suitable for general administrative spend such as catering, taxis, couriers, etc., and is raised by the budget holder only. A reducing balance purchase order does not take the place of the appropriate procurement or drawdown process as required by this Policy.

2.4 Orders which may be placed without a purchase order

- (a) Orders for goods or services costing less than €150 (excluding VAT).
- (b) Subsistence expenditure excluding flights and all hotel and entertainment costs which are not related to travel and subsistence, i.e., relating to seminars, conferences etc.).
- (c) Purchases using petty cash. For small amounts of expenditure, a petty cash voucher must be completed and signed for by the purchaser and a valid receipt must be attached. The voucher must be authorised by the Finance Officer.

- (d) Expenditure already covered under a contract for which a reducing balance purchase order has been raised and approved for the contract for goods or services, e.g. taxis, couriers and catering for meetings.

It should be noted that where a framework agreement or contract is in place for the provision of goods or services over a period of time, e.g., legal services or office suppliers, a purchase order must be raised for all individual instances of expenditure under that contract unless a reducing balance purchase order is already in place.

2.2 Purchase Request

The BAI uses Focalpoint to raise purchase requests. BAI staff must log on to the Focalpoint system to raise a purchase request. A log on username and password can be obtained from the Procurement function.

The purchaser raises a purchase request by:

- Selecting the supplier.
- Entering the Project Code.
- Entering the cost centre and analysis code (both these codes are identical).
- Entering the number of written quotes received.
- Typing in a description of the expenditure requested.
- Entering the description, quantity, unit cost and applicable VAT rate for each line item of expenditure.
- Uploading the quote(s) and any other relevant documentation
- Clicking on 'submit'

Notification of the purchase request is emailed to the budget holder.

2.3 Purchase Order approval

The budget holder receives an email stating that a purchase request has been made against a budget for which they are responsible.

- The budget holder logs in to Focalpoint
- The budget holder reviews the purchase request and must ensure that:
 - the correct procurement process has been undertaken before a purchase order is raised;
 - the appropriate documentation has been attached to the purchase request;
 - the purchase request is coded to the correct budget code, and;
 - there is sufficient money available in the budget to cover the purchase request.
- If satisfied, the budget holder approves the request.
- The budget holder can reject the purchase request and provide a reason for the rejection.

The purchaser is notified by email that the request has been approved or rejected.

Only when a purchase request has been approved by the budget holder may the purchaser commit to the expenditure.

The purchaser should quote the purchase order number to the supplier and inform the supplier that this purchase order number must be quoted on all applicable invoices.

2.4 Invoice approval

Supplier invoices may be received by the budget holder or directly by the Finance function. All invoices must be forwarded to the Finance function. The Finance function checks the invoice, matches it against the relevant purchase order and submits it to the budget holder for authorisation.

- The Finance function checks and signs off the 'checked by' line.
- The purchaser checks and signs off the 'Verified by' line.
- The Senior Manager approving the bank payment signs off on the "Signature" line.
- The cost centre and nominal code, date and method of payment are completed by Finance before filing.

2.5 Payment

Only authorised invoices will be paid. The BAI will deduct any related taxes as applicable; for example, Professional Services Withholding Tax (PSWT). Payments will be made in line with statutory guidelines. Payments will be made in accordance with the BAI Bank Mandate and on the basis of BAI payment authorisation levels (Appendix 2).

The BAI's standard terms and conditions stipulate that payment should not normally be made prior to the receipt of goods or services. Should payment be requested by a supplier prior to receipt of goods/services and that request is supported by the budget holder, written authorisation must be obtained from the budget holder and copied to the Procurement and Finance functions.

a) Tax clearance

All suppliers or contractors providing goods or services in excess of €10,000 (including VAT) within any twelve month period must show evidence that they hold a valid tax clearance certificate. Irish registered suppliers must provide a valid Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status. Non-resident suppliers must provide a valid paper copy of their Tax Clearance Certificate. This should be retained on file in Finance.

In addition, per Circular 43/2006 from the Department of Finance (updated 26th July 2012), where payments exceed €2,600 in any twelve-month period, a subcontractor must produce a current tax clearance certificate or demonstrate a satisfactory level of subcontractor tax compliance. All payments under a contract are conditional on compliance with these requirements.

Before placing any order, the budget holder must establish that the Finance Function has been provided with a valid Tax Clearance Access Number and Tax Reference Number and that it has been verified that the supplier holds a valid tax clearance certificate. In the case of a non-resident supplier, the budget holder must establish that there is a current valid tax clearance certificate for the supplier or contractor on file with the Finance function. The budget holder is responsible for requesting this information from the supplier in order to establish that the supplier has been issued with a valid tax clearance certificate before placing an order

Payments will not be made unless valid proof of tax clearance is held by the Finance Function.

b) Supplier bank details

The BAI generally makes authorised payment through Electronic Funds Transfer (EFT). All new suppliers should be notified to the Finance function by the budget holder. Finance will set up the new supplier account and bank details on Focalpoint, the purchase order system, and on Access, the general ledger accounting system.

c) Credit card payments

Orders placed using a credit card must follow the normal procurement procedures and must not be placed until a purchase order has been approved by the budget holder. (This does not apply in the case of travel and subsistence payments.)

Credit card numbers are confidential to the credit card holder and to the Finance function.

It is understood that there may be occasions where someone other than the credit card holder is required to place an order on a credit card (e.g., when a staff member is making hotel reservations for a credit card holder). The requestor should make a specific request and receive permission from the card holder to use the card on every occasion that the card is used. The card information should not be retained by the requestor and may not be used again without the cardholder's permission. The requestor should immediately provide receipts and any other relevant documentation to the cardholder. If the cardholder is not available, the requestor should contact the Finance function for a credit card number.

Use of credit cards is subject to the BAI Credit Card Acceptable Usage Policy.

d) Grant payments

Broadcasting Fund and Sectoral Development grants are outside the scope of the BAI Procurement Policy.

3. PROCUREMENT GUIDELINES

See Appendix 3 for thresholds for procurement processes.

Wherever possible, purchasers should strive for standardisation of products/services. Dispersal of ordering across a range of suppliers for similar goods and services usually reduces the scope for competitive pricing and for improving product quality and availability.

Where goods or services are used by more than one area, the supply should be co-ordinated by a designated purchaser (to be agreed on each occasion).

Unless other arrangements are made with the Procurement function, all purchase orders must be placed on the basis of the BAI's standard conditions of purchase (see contract award template, Appendices 6 and 7). Purchasers must advise suppliers that the BAI conditions take precedence. Purchasers must also carefully examine a supplier's conditions of sale and, where these are in conflict with the BAI's terms and conditions, advice must be sought from the Procurement function.

Under no circumstances should requirements be split to bring purchases below a particular threshold. In assessing the value of a contract or purchase, the maximum possible value of business to be entered into between THE BAI and the supplier should be taken into account. Consideration must be given to extensions, options and renewals.

Financial leasing agreements, etc. are a special category of purchasing and must be discussed with the Procurement function, who will decide on the appropriate procedure.

3.1 Value for money

The primary basis for providing evidence of value for money² is to be able to show that what was offered by the selected supplier provided better value for money than that offered by any other potential supplier. This can only be reasonably achieved by inviting competitive tenders for high value goods and services, i.e., €25,000 or more. A minimum of three written quotations must be obtained for expenditure ~~under~~ between €5,001 and €25,000 and standard "off the shelf" specifications. It is rarely the case that there is only one possible supplier.

The Procurement function will review expenditure to identify where payments to a supplier have exceeded €5,000 in one calendar year (across one or more different budget codes) and to determine whether or not it is appropriate for the goods or services provided by that supplier to be put to quote or to tender.

For purchases of high specification equipment, it may be appropriate to use formal tendering processes to ensure greater competition and improved value for money.

² Value for money, as specified in the Comptroller and Auditor General (Amendment) Act, 1993, encompasses (a) economy, i.e. providing suitable resources for a task at the lowest cost having regard to quality and (b) efficiency which relates the cost of resources to the outputs achieved. Value for money also encompasses effectiveness. This is defined in terms of the systems, procedures and practices used by government departments and other public sector bodies for the purpose of evaluating the effectiveness of their operations

Advice on strategies for particular purchases may be sought from the Procurement function.

3.2 Framework Agreements

Where ongoing requirements are a feature of the business but exact quantities are not known and/or where the BAI does not wish to enter into a formal contract committing it to purchase requirements over an extended period of time, consideration should be given to awarding a framework agreement. A framework agreement is a mechanism for awarding contracts of a repetitive nature. Framework agreements are normally established on the basis of open or restricted tendering on the basis of known requirements, e.g., legal services.

The Procurement function should be contacted for all framework agreements.

Key points to bear in mind in determining the use of framework agreements:

- Frameworks can be established with one party which is useful when standardisation is required, e.g. IT equipment;
- Frameworks can also be established with two or more parties. In this case, services or goods are procured by holding a mini-tender competition between members of the framework. This helps to ensure ongoing competition and availability of choice.
- The total value of all business likely to be awarded over the life of the framework agreement should be taken into account in determining whether to advertise at national or EU level;
- The use of frameworks must be indicated in the original advertisement.

3.2.1 Using framework agreements

The procedure for using framework agreements is provided in Appendix 10.

A list of current framework agreements is provided in Appendix 11.

3.3 Sole Source and Single Supplier Scenarios

On rare occasions, there may be only one supplier of a particular item and no alternative is available ("sole source"). In this instance, the onus is on the purchaser / budget holder to prove that there is only one source available. Also, from time to time, there will be a requirement that an item(s) must be purchased from a particular supplier only, usually to ensure compatibility with existing goods or servicing arrangements ("single source").

The Procurement function must be notified in advance of any potential sole supplier scenarios and approval for sole supplier scenarios for spend of €5,000 or more is required in advance from the Chief Executive on the basis of a detailed business

justification from the purchaser. All sole supplier scenarios for spend of €5,000 or more must also be reported retrospectively to the FAR committee.

3.4 Public sector collaboration

Discounts or other favourable contract terms may be available through other public sector organisations such as the Office of Government Procurement, the Department of Public Expenditure and Reform, etc. Wherever possible, purchasing contracts made available by public sector collaboration should be supported, provided always that (i) value for money can be demonstrated and (ii) these contracts were awarded in compliance with the appropriate rules enabling use by the BAI. These include arrangements made by government departments and/or agency contracts.

Individual purchasing arrangements for projects or operational areas within the BAI should be made available across the organisation and should be structured on the basis of use by the BAI rather than a specific area.

3.5 Derogations

In absolute emergencies, there may not be time to seek competitive bids and the BAI would, therefore, be invoking a derogation from competition.

Within the terms of the procurement rules, emergencies are classed as such when the requirement is strictly necessary for reasons of extreme urgency brought about by unforeseeable events where the time limits for advertising cannot be met.

Poor planning on the BAI's part is not sufficient reason to invoke a derogation from competition. It should be a genuine business reason involving provision of services or health and safety.

If any of the foregoing occurs, the purchaser should make a full written justification for approval by the Chief Executive for the decision not to seek competitive bids. Full written records must be maintained of all decisions and should be forwarded to the Procurement function for filing.

Procurement files will be retained for six years from the end of the current financial year.

3.6 Lots

In relation to contracts above the EU thresholds, the EU Directive encourages a contracting authority to divide larger contracts into lots in order to facilitate SME access. Where contracts are sub-divided into lots, the BAI may limit the number of lots which may be awarded to any one tenderer. An indication of the main reasons for a decision not to sub-divide a contract into lots must be documented and included in the procurement documents or in the Article 84 report referred to under section 3.8 of this document.³

³ Recital 78 of the EU Directive gives an indication as to the reasons which the contracting authority may rely upon if a decision not to sub-divide a contract into lots is made. Such reasons include risk of restricting competition, risk of rendering the execution of the contract excessively technically difficult or expensive or risk of undermining the proper execution of the contract due to the co-ordination of different contractors.

3.67 Supplier Debriefing

In relation to contracts above the EU thresholds, tenderers should be informed as soon as possible of decisions reached concerning the award of a contract, including the grounds for any decision not to award a contract for which there has been a call for competition or any decision to recommence a procedure.

Written debriefings will contain as much information as possible so that the unsuccessful candidate/tenderer will be aware of where they lost points in relation to the successful candidate/tenderer.

Unsuccessful tenderers should be informed of the characteristics and relative advantages of the preferred tender. Information should include but is not limited to:

- (i) Name of the winning tenderer;
- (ii) Reasons for rejection of their tender against award criteria;
- (iii) Features of winning tenders over theirs;
- (iv) Scores of winning tenderer and their own score;
- (v) Standstill period applicable to contract (14 days when notified electronically; 16 days when notified by other means).

In relation to the restricted, negotiated and competitive dialogue procedure, those suppliers not proceeding to the tender list should be informed of the following:

- (i) A narrative against each criterion explaining where the candidate lost marks relative to the lowest scoring candidate admitted to the tender list;
- (ii) Scores of the lowest scoring candidate admitted to the tender list and their own score.

3.8 Article 84 reports

For every contract entered into or framework agreement established above the EU thresholds, the BAI shall draw up a written report which shall include at least the following:

- (i) the name and address of the contracting authority and the subject matter and value of the contract or framework agreement;
- (ii) where applicable, the names of the selected candidates/tenderers passing any selection stage and the reasons for their selection;
- (iii) where applicable, the names of any rejected candidates/ tenderers following any selection stage and the reasons for their rejection;
- (iv) where applicable, the names of bidders selected (following a “reduction of numbers” under Article 66 of the EU Directive) to continue to take part in

a competitive procedure with negotiation or competitive dialogue process and the reasons for their selection;

- (v) the reasons for the rejection of any tenders found to be abnormally low;
- (vi) the name(s) of the successful tenderer(s) and the reasons why the successful tender(s) were selected and, where known:
 - a. the share, if any, of the contract or framework agreement which the successful tenderer intends to subcontract to third parties, and
 - b. the names of the main contractor's subcontractors;
- (vii) for competitive procedures with negotiation and competitive dialogues, the circumstances referred to in Article 26 of the EU Directive which justify the use of those procedures;
- (viii) for negotiated procedures without prior publication, the circumstances referred to in Article 32 which justify the use of those procedures;
- (ix) where applicable, the reasons why the BAI has decided not to award a contract or framework agreement or to establish a dynamic purchasing system;
- (x) where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
- (xi) where applicable, conflicts of interests detected and subsequent measures taken;
- (xii) If not recorded elsewhere in the tender documents, an indication of the main reasons why it was considered that there was a justified case for requiring tenderers to evidence turnover greater than the standard permitted maximum of twice the estimated contract value (for example due to special risks attached to the nature of the works, services or supplies); and
- (xiii) If not recorded elsewhere in the procurement documents, the main reasons for the decision not to subdivide the requirements into lots.

In addition to the above report, the BAI shall document the progress of all procurement procedures. the BAI shall ensure that it keeps sufficient documentation to justify decisions taken in all stages of procurement procedures, such as documentation on communications with economic operators and internal deliberations, preparation of the procurement documents, dialogue or negotiation if any, selection and award of the contract.

The documentation referred to above shall be kept for a period of at least three years from the date of award of the contract.

3.79 Conflict of Interest

Any member of staff or contractor involved in the drawing up of technical specifications for requests for tenders or in the recommendation or selection of tenders must inform the Head of Procurement in writing if he/she has any interest, shareholding or other possible conflict of interest with a tenderer or potential tenderer. Any conflict of interest or potential conflict of interest must be fully disclosed to the Head of Procurement as soon as such conflict or potential conflict becomes apparent.

A member of staff or contractor may not participate in any tender process on behalf of the BAI where he/she has any interest, shareholding or other possible conflict of interest with a tenderer or potential tenderer, unless exempted in writing by the Head of Procurement. In the event of any conflict or potential conflict of interest, the BAI shall, in its absolute discretion, decide on the appropriate course of action.

Please refer to Appendix 9 (Code of Ethics).

4. PROCUREMENT PROCEDURES

The choice of procedure is determined by the type of purchase and the estimated value of the contract. The monetary thresholds set out in Appendix 3 determine which type of procurement process is required. These thresholds relate to the total value of the contract exclusive of VAT. Where a project or purchase involves separate lots, the total value of all lots must be included in estimating the value of the contract. Where it is envisaged that a project or purchase will involve possible contract renewals and options for the provision of additional or other goods and services, the value of such renewals and options should be taken into account.

4.1 Contracts with values below the EU thresholds

4.1.1 *Contracts below €5,000*

At least one written quote is required where the supply of goods or services is less than €5,000. The supplier must be provided with a copy of the BAI terms and conditions.

4.1.2 *Contracts between €5,001 and €24,999*

At least three written quotes are required where the supply of goods or services is greater than €5,001 and less than €25,000.

A BAI contract must be issued to and signed by the supplier and the BAI budget holder, and saved on the procurement files.

Procedure for placing a call for quotes:

- Purchaser contacts the Procurement function in sufficient time to ensure that a new contract is in place when the existing contract expires. Generally six weeks is the minimum lead time required to complete the call for quotes process.
- Specification / requirements and assessment criteria are drawn up by the purchaser for the goods or services required
- Call for quotes document is drawn up by the purchaser or by Procurement staff using the standard BAI call for quotes template.
- Call for quotes is issued to at least three providers by the purchaser
- Submissions are evaluated on the basis of the criteria or rules outlined in the call for quotes document
- Details of the successful quote are approved by the budget holder
- Debrief letters are issued to unsuccessful candidates
- Contract is prepared, reviewed by Procurement staff and issued to the successful supplier
- A copy of the final contract and the successful submission are provided to Procurement staff for retention on the procurement files.

4.1.3 *Contracts above €25,000 and up to the value of the EU Thresholds*

An open tender is required where the value of the contract is more than €25,000 and up to the value of EU thresholds. (See Appendix 3 - Procurement thresholds).

A BAI contract must be issued to and signed by the supplier and the BAI budget holder, and saved on the procurement files.

Procedure to be followed for a contract above €25,000 and up to the value of the EU Thresholds;

- Purchaser contacts the Procurement function in sufficient time to ensure that a new contract is in place when the existing contract expires. Generally three to four months is the minimum lead time required to complete the tender process.
- If the planned spend is above the authorisation level of the purchaser, appropriate authorisation for the spend must be obtained in advance of starting a procurement process. See Appendix 2 for purchasing and authorisation levels.
- Specification/requirements are drawn up by the purchaser for the goods or services required containing minimum financial/technical requirements and award criteria.
- Request for tender document is drawn up by Procurement staff and the purchaser.
- Assessment matrix based on tender criteria and weightings is drawn up by Procurement staff.
- Purchaser identifies assessors for tenders.
- Request for tender (Appendix 5) is published by Procurement staff on www.etenders.gov.ie

- Tender documents are date stamped when received and kept unopened until the tender due date and time has expired.
- Tenders are opened on or after the tender due date in the presence of two staff members, at least one of whom should be from the Procurement function.
- The Tender Opening Form (Appendix 6) is completed.
- Tenders are evaluated using the Assessment Matrix and a successful tenderer is identified.
- Successful and unsuccessful tenderers are notified of the intention to award the contract to the successful tenderer following the conclusion of a voluntary 14 or 16day standstill period.
- Award of the contract is approved as required by the CEO, FAR or Authority.
- Contract is drawn up by Procurement staff.
- At the expiration of the standstill period, contract is issued to the successful tenderer.
- A copy of the final contract and the successful tender submission and the final assessment matrix are provided to the Procurement function for retention on the procurement files.
- Publish a contract award notice on e-tenders on completion of the award.
- Complete an Article 84 report for any framework agreement or contract above the EU threshold.

4.2 Contracts with values above the EU Thresholds

The procedures set out in this section address the requirements of purchases above the thresholds set out in Appendix 3.

All tender processes conducted by the BAI must include provision for acceptance of the European Single Procurement Document (“ESPD”). The ESPD is essentially a self-declaration which contracting authorities must accept as preliminary evidence that a tenderer meets (i) the relevant selection criteria, (ii) where applicable, the objective rules and criteria for shortlisting, and (iii) that the grounds for exclusion do not apply.

The actual documents supporting the ESPD will only have to be provided by the successful tenderer or in the case of a multi-stage process, by the short-listed tenderers.

A BAI contract must be issued to and signed by the supplier and the BAI budget holder, and saved on the procurement files.

There are five tender procedures available under the EU Directive and Regulations:

- Open procedure: all interested suppliers, contractors or service providers may submit tenders. No post tender negotiation is permitted in this procedure.
- Restricted procedure: any interested suppliers, contractors or service providers may request to participate but only appropriately qualified candidates invited by

the BAI may submit tenders. No post tender negotiation is permitted in this procedure.

- Competitive procedure with negotiation: any interested suppliers, contractors or service providers may request to participate; the BAI invites selected appropriated qualified candidates and negotiates the terms of the contract with one or more of them. This procedure is available only in certain exceptional circumstances.
- Competitive dialogue procedure: dialogue is allowed with selected suppliers to identify and define solutions to meet the needs and requirements of the BAI and chosen suppliers will be invited to tender. This procedure is available only in certain exceptional circumstances.
- Innovation partnership: a process used to procure a partner (or partners) to develop some new or innovative solution. Any interested supplier, contractor or service provider may request to participate; the BAI invites selected appropriately qualified candidates and negotiates the terms of the contract with one or more of them. This procedure is available only in certain exceptional circumstances.

In general, most contracts to be awarded by the BAI will be governed by the Open or Restricted procedures as set out below.

4.2.1 Open Tender Procedure

- Purchaser contacts the Procurement function in sufficient time to ensure that a new contract is in place when the existing contract expires. Generally three to four months is the minimum lead time required to complete the tender process.
- If the planned spend is above the authorisation level of the purchaser, appropriate authorisation for the spend must be obtained in advance of starting a procurement process. See Appendix 3 for purchasing and authorisation levels.
- Specification/requirements are drawn up by the purchaser for the goods or services required containing minimum financial / technical requirements and award criteria.
- Request for tender document is drawn up by Procurement staff and the purchaser.
- Purchaser identifies assessors for tender.
- Request for tender (Appendix 6) is published by Procurement staff on www.etenders.gov.ie and in the Official Journal of the European Union (OJEU).
- Assessment matrix based on tender criteria and weightings is drawn up by Procurement staff.
- Tender documents are date stamped when received and kept unopened until the tender due date and time has expired.
- Tenders are opened on or after the tender due date in the presence of two staff members, at least one of whom should be from the Procurement function.
- The Tender Opening Form (Appendix 6) is completed.

- Initial compliance check is carried out to ensure that all declarations required in the ESPD are complete.
- Tenders are evaluated using the Assessment Matrix and a successful tenderer is identified.
- Details of the successful tenderer along with their tender submission is approved or ratified as appropriate.
- Successful and unsuccessful tenderers are notified of the intention to award the contract to the successful tenderer subject to the mandatory 14-day (16-day if not issued electronically) standstill period and subject to the successful tenderer furnishing any underlying or supporting documentation that was self-declared in the ESPD.
- Contract is drawn up by Procurement staff.
- At the expiration of the standstill period, contract is issued to the successful tenderer.
- A copy of the final contract and the successful tender submission are provided to the Procurement function for retention on the procurement files.
- Publish a contract award notice on e-tenders and OJEU no later than 30 days after the completion of the award.
- Complete an Article 84 report for any framework agreement or contract above the EU threshold.

4.2.2 *Restricted Tender Procedure*

- Purchaser contacts the Procurement function in sufficient time to ensure that a new contract is in place when the existing contract expires. Generally three to four months is the minimum lead time required to complete the tender process.
- If the planned spend is above the authorisation level of the purchaser, appropriate authorisation for the spend must be obtained in advance of starting a procurement process. See Appendix 3 for purchasing and authorisation levels.
- Specification/requirements are drawn up by the purchaser for the goods or services required containing minimum financial/technical requirements and award criteria.
- Expressions of interest document is drawn up by Procurement staff and the purchaser.
- Purchaser identifies assessors for tender.
- Advertisement for expressions of interest is published on www.etenders.gov.ie and in the Official Journal of the European Union (OJEU).
- Expressions of interest are evaluated on the basis of the criteria and rules defined in the notice (or qualification questionnaire).
- A tender list of at least 5 suppliers is prepared and letters requesting any relevant underlying or supporting documentation that was self-declared in the ESPD are drawn up for this provisional list of short-listed suppliers.
- ~~Regret~~ Debrief letters are issued to unsuccessful candidates.

- Invitation to tender letter and request for tender (Appendix 6) is drawn up and issued to shortlisted candidates who have provided all relevant underlying information to support their selection.
- Assessment matrix based on tender criteria and weightings is drawn up by Procurement staff.
- Tender documents are date stamped when received and kept unopened until the tender due date and time has expired.
- Tenders are opened on or after the tender due date in the presence of two staff members, at least one of whom should be from the Procurement function.
- The Tender Opening Form (Appendix 6) is completed.
- Tenders are evaluated using the Assessment Matrix and a successful tenderer is identified.
- Details of the successful tenderer along with their tender submission is approved or ratified as appropriate.
- Successful and unsuccessful tenderers are notified of the intention to award the contract to the successful tenderer subject to the mandatory 14-day (16-day if not issued electronically) standstill period and subject to the successful tenderer furnishing any underlying or supporting documentation that was self-declared in the ESPD as may be required.
- Contract is drawn up by Procurement staff.
- At the expiration of the standstill period, the contract is issued to the successful tenderer.
- A copy of the final contract and the successful tender submission are provided to the Procurement function for retention on the procurement files.
- A contract award notice is published on e-tenders and OJEU no later than 30 days after the completion of the award.
- Complete an Article 84 report for any framework agreement or contract above the EU threshold.

4.3 Extension of contracts

4.3.1 Extension of contract duration

Any purchaser proposing to extend a contract must seek guidance from Procurement staff.

4.3.2 Extension of contract scope

Any purchaser proposing to extend the scope of a contract, i.e., seeking services from the supplier which are outside the scope of the existing contract, must seek guidance from Procurement staff.

5. TENDERING REQUIREMENTS

The Procurement function is responsible for all tender processes and contracts and must be consulted on and involved in all stages of the tendering and contracting process.

All tender procedures will be administered and facilitated by the Procurement function.

Tenders must always be in writing, unless alternative electronic arrangements ensuring full confidentiality, etc. are in place. Where soft copies are required this should be indicated. It is recommended to request pdf versions as accurate copies of submissions.

The purchaser must ensure the budget holder has authorised the expenditure in advance of seeking quotes or tenders.

5.1 Exclusions

There are a number of grounds for the exclusion of tenderers set out in Article 57 of the EU Directive which are based on evidence of unsuitability, some of which are mandatory. Reasons include criminal conviction for certain offences (mandatory), failure to pay taxes (mandatory) and previous poor performance which has led to early termination, damages or other comparable sanctions (discretionary). Some of the grounds for mandatory exclusion are subject to account being taken of remedial action by the supplier, e.g. organisational changes. It is important to note that there are statutory limits to the duration of any exclusion period.

Those suppliers not excluded can then be assessed on the basis of their economic and technical capacity.

5.1.2 Financial and technical capacity

All requirements must be related and proportionate to the subject matter of the contract.

It is incumbent upon the BAI to ensure that contractors have the minimum financial and technical capacity to perform the requirements of each individual contract. Tenderers should always be asked to confirm minimum levels. The minimum levels to be applied should be determined on a contract-by-contract basis and depend on the value and risk of the contract in question. Any relevant DPER circulars or guidelines will apply.

Financial standing may be determined by asking for any / all of the following:

5.2.1 *Evidence of turnover*

Evidence of turnover by way of audited accounts for the previous three years of operation or on a pro rata basis for firms which are more recently established, or a statement from the firm's auditor or other acceptable evidence.

The EU Directive provides that the minimum yearly turnover shall not exceed two times the estimated value of the contract except where there is a specific justification, for example, where there are special risks attached to the nature of the works, services or supplies.⁴ If this exception is relied upon, the BAI must provide the reasons for such a requirement in the Request for Tender or call for quotes documents or within the Article 84 report⁵.

Where contracts based on a framework are awarded, the maximum yearly turnover shall be calculated on the basis of the expected maximum size of specific contracts that will be performed at the same time or, where it is not known, on the basis of the estimated value of the framework agreement.

5.2.2 *Evidence of insurances*

Evidence of insurances in place (note that tenderers can be requested to commit to specific levels of insurance if successful).

5.2.3 *Evidence of tax compliance*

See paragraph 2.5(a) above.

Financial criteria are ordinarily assessed on a pass/fail basis.

Each of the above may be self-declared by tenderers with the evidence sought prior to award of contract. This reduces the administrative burden on tenderers and on the BAI. In relation to technical standing, this may be determined by asking for any/all of the following details:

- Previous experience on similar contracts which may include references from contracts performed
- Educational and professional qualifications of key personnel
- Organisation structure
- Manpower levels and skills
- Quality assurance programmes in place.

Assessing the above can provide confidence that only competent firms are considered at tender evaluation stage.

The ESPD may be used by Tenderers to self-declare that they meet the financial and technical criteria set.

5.23 Award criteria

The applicable award criteria must be linked to the subject matter of the contract, should be set out in the tender documents and shall be based on the most economically advantageous tender. In addition to price, various other criteria may be considered depending on the contract in question, such as delivery process and delivery period or

⁴ Article 58 of the EU Directive and Regulation 58(9) of the Regulations

⁵ Article 58 of the EU Directive and Regulation 58(14) of the Regulations

completion date, running costs, cost effectiveness, quality, aesthetic and functional characteristics, accessibility, social, environmental and innovative characteristics, technical merit, after-sales service and technical assistance, organisation, qualification and experience of staff where quality of staff assigned can have a significant impact on the level of performance, commitments with regard to spare parts and security of supplies.

The BAI must clearly state in its Request for Tender or call for quotes documents all the criteria which it is intended to apply to the award together with the relative weightings applicable to each criterion. Where weightings are sub-divided within criteria headings, these should be provided. It may be appropriate to set a minimum score requirement for key qualitative criteria. The minimum is usually set at 60% of the maximum score. For example, in the case of a criterion worth 40% of the total marks, the tenderer must achieve 24 points in order to remain eligible for consideration against all other criteria.

Tenderers must be informed of the award criteria and associated weightings in the tender documents and these criteria cannot be amended once the competition has commenced.

Where it is not possible for objective reasons to specify weighting then criteria must be specified in decreasing order of importance.

APPENDIX 1 - PURCHASING APPROVAL LIMITS

All purchase requests should be notified to and approved in principle by the budget holder.

All purchases must be authorised within the appropriate authorisation levels, as detailed below, before expenditure is committed.

Grade / level	Spending limits (ex. VAT)
Clerical Officer	<€150
Executive Officer & Engineer III	<€2,000
Higher Executive Officer & Engineer II	<10,000
Senior Managers (AP / Eng I / PO)	<€20,000
Chief Executive	<€100,000
Authority	>€100,000

APPENDIX 2 – PAYMENT AUTHORISATION LEVELS

the BAI generally make payments by Electronic Funds Transfer (EFT). All payments made are required to be in accordance with the latest Bank Mandate. Current details are as follows:

Authorised signatories:

Any two of:

- Chief Executive
- Deputy Chief Executive
- Authorised Senior Managers

APPENDIX 3 – THRESHOLDS FOR PROCUREMENT PROCESSES

Thresholds (exclusive of VAT) above which advertising of contracts in the Official Journal of the EU is obligatory, applicable from 1 January 2016⁶.

Description	Contract notice
Works	€5,225,000
Supplies and services	€209,000

The following table outlines the various contract values and the approval and procurement procedures which must be complied with. The Procurement function must be consulted and involved in all stages of the tendering and contracting process.

Value of goods / services	Approval	Minimum number of quotes required	Procurement process required
<€150	Budget holder	One written quotation	<ul style="list-style-type: none"> • BAI T&Cs to supplier • Purchase Order not required but recommended (attach quote)
€151 - €4,999	Budget holder	One written quotation	<ul style="list-style-type: none"> • BAI T&C's to supplier • Purchase Order (attach quote) •
€5,000 - €24,999	Budget holder	Three written quotes	<ul style="list-style-type: none"> • Call for quotes • Signed contract • Purchase Order (attach quotes)
IT contracts over €10,000	<ul style="list-style-type: none"> • Budget holder (to €19,999) • Chief Executive (€20k to €99,999) • Authority (over €100,000) 	-	<ul style="list-style-type: none"> • Open national tender process • Signed contract • Purchase Order (attach link to file containing tender process docs)
€100,000 - €206,999	<ul style="list-style-type: none"> • Authority (pre-approval) 	-	<ul style="list-style-type: none"> • Open national tender process • Signed contract • Purchase Order (attach link to file containing tender process docs)

⁶ Thresholds are revised every two years. Full and up to date thresholds can be found on the EU public procurement website <http://www.simap.europa.eu/>.

Value of goods / services	Approval	Minimum number of quotes required	Procurement process required
>€207,000 ⁷	<ul style="list-style-type: none"> Authority (pre-approval) 	-	<ul style="list-style-type: none"> Open national and EU tender process Signed contract Purchase Order (attach link to file containing tender process docs)

- Purchases subject to the EU Directive and financial/leasing/hire purchase contracts must be approved in advance by the Authority
- Legal and PR consultancy contracts and services must be pre-approved by the Authority
- Purchase of capital items not in the annual budget must be authorised in advance by the Office of the CEO.

The above thresholds are mandatory and represent minimum requirements. For particular purchases, it may be appropriate to use stricter limits where this would lead to improved value for money.

⁷ All supplies and service contracts in excess of €209,000 must be advertised in the Official Journal of the European Union (OJEU) and awarded fully in compliance with the Public Sector Directive (2014/24/EU) and European Union (Award of Public Authority Contracts) Regulations 2016. Procurement is responsible for all European contracts and must be consulted and involved in all stages of the process

APPENDIX 4 - REQUEST FOR QUOTATIONS TEMPLATE

[...\FGP\07 PROCUREMENT\TEMPLATES\Request for Quotes template.docx](#)

APPENDIX 5 - REQUEST FOR TENDER TEMPLATE

<..\FGP\07 PROCUREMENT\TEMPLATES\Request for Tender template.docx>

APPENDIX 6 – TENDER OPENING FORM

TENDER OPENING FORM

SECTION A

(This section must be completed BEFORE the tenders are opened and criteria listed in this document must match the criterion listed in the tender letter and/or specification issued to tenderers)

Product / service for tender	
Purchaser	
Request for Tender document (link)	

Date Section A completed:

Signed (Head of Procurement):

SECTION B

Date of opening of tenders:

Tenderer

APPENDIX 7 – BAI CONTRACT TEMPLATE (SERVICES)

[..FGP\07 PROCUREMENTTEMPLATES\BAI Services Contract April 2015.docx](#)

APPENDIX 8 – BAI CONTRACT TEMPLATE (GOODS)

[..\FGP\07 PROCUREMENT\TEMPLATES\BAI Goods Contract April 2015.docx](#)

APPENDIX 9 - TENDER TIMELINES

Open Procedure

- for receipt of tenders: **52 days**
- if a PIN has been published (see 6.7 above): as a general rule the minimum time
- may be reduced to **36 days** but in no circumstances less than **22 days**.

Restricted, Negotiated and Competitive Dialogue Procedures

- for receipt of expressions of interest / requests to participate: 37 days;
- for receipt of tenders under restricted procedures: 40 days from date of issue of invitation to tender;
- if a PIN has been published: as a general rule the minimum time for receipt of
- tenders under the restricted procedure may be reduced to 36 days but in no circumstances less than 22 days (no reduction in times for receipt of expressions of interest).
- Under a negotiated procedure or in competitive dialogue the time allowed for receipt of tenders may be agreed between the parties involved.

Where genuine urgency⁸ renders these time limits impracticable, shorter time-limits may be applied as follows

- for receipt of expressions of interest, not less than 15 days from the date of dispatching the notice and
- for receipt of tenders, not less than 10 days from the date of issue of invitation to tender.

Electronic / online transmission

Minimum times for responses may be reduced where contract notices are transmitted electronically to the OJEU and all tender documentation is made available electronically in accordance with the provisions of the revised Directives. The reduction can be up to a cumulative 12 days, reflecting the potential for time saving if up - to - date technological methods of communication and transmission are used at the various stages of the process. Conditions for availing of these potential time reductions are set out in Article 38 (5) and (6) of the revised public sector Directive.

⁸ The use of the urgent procedures, or accelerated procedures, as referred to in the Directives, must be justified and have been caused by unforeseeable events outside the control of the contracting authority. The EU Commission and ECJ interpret 'urgency' very strictly. Delay or inaction on the part of the contracting authority is not sufficient reason for applying exceptional procedures.

APPENDIX 10 - CODE OF ETHICS

As a public body, the highest standards of ethical behaviour & integrity in the conduct of business are expected of all staff involved in purchasing. Staff should be familiar with the BAI's Staff Code of Business Conduct. In addition the following issues should be considered by staff involved in procurement.

While bearing in mind the advantages to the BAI of maintaining a continuing relationship with a supplier, any arrangement which might, in the long term, prevent the effective operation of fair competition should be avoided.

All dealings with suppliers should be handled in a prompt and courteous manner. Every effort should be made to treat suppliers fairly and equally and, in bid situations, to furnish all with the same adequate information. Reasonable efforts should be made to ensure that bid lists only comprise those suppliers who are financially sound and who have a realistic chance of winning the business.

Personal inducements in any form from suppliers of goods and services to employees are forbidden. Any instances of such inducements must be advised immediately to the Head of Finance.

It may occur that the BAI conducts business in which a family member or close associate of an employee of the BAI is involved. While such business arrangements are not disallowed, it is important that there is no impropriety or perception of impropriety in such an arrangement. Where such a situation arises or may potentially arise, the Head of Finance must be notified and, where possible, the BAI employee must withdraw from the process. Clarification of what constitutes a family member or close associate may be obtained from the Head of Finance at any time.

It may occur that an employee of the BAI may wish to make a personal purchase from an approved supplier of the BAI, availing of discounts or other arrangements which have been negotiated by the BAI with that supplier. While such a transaction is not disallowed, this is a private arrangement between the employee and the supplier for which the BAI takes no responsibility. The employee must (a) make it clear to the supplier that this is a private transaction between himself/herself and that supplier, (b) negotiate privately with the supplier as to whether he/she may utilise the BAI discounts, etc., (c) arrange for delivery and (d) pay for all goods/services and/or delivery costs directly to the supplier. The BAI must not be invoiced for these goods/services and/or delivery costs.

Suppliers who attempt to provide inducements over and above that which would be considered acceptable will be removed from all future tender lists.

Confidentiality

Bids and offers should be solicited on the basis that they will remain confidential both before and after the business is placed. Equally, suppliers are obliged to ensure that any privileged information regarding the operations of the BAI is kept strictly confidential and divulged only on a need-to-know basis. Suppliers and their employees, agents and sub-contractors should sign a confidentiality agreement.

APPENDIX 11 – PROCEDURE FOR AWARD OF CALL-OFF CONTRACTS FROM FRAMEWORK AGREEMENTS

At any time during the framework period, a call-off contract may be awarded as follows:

1. Where the estimated value of the Call-Off Contract is less than €5,000, the Authority, at its discretion, will issue a Request for Quotation to a single Framework Member;
2. Where the estimated value of the Call-Off Contract is €5,000 or greater, the Authority will conduct a Mini-Tender competition in accordance with the procedure described below.

Mini-Tender competitions will be conducted in accordance with the following procedure:

1. The Authority will issue a request for mini-tender to all framework members who are capable of performing the call-off;
2. Capability in this regard shall be determined with reference to:
 - (i) the compliance of the Framework Member with its obligations under the terms of this Framework Agreement and;
 - (ii) the availability of the resources required for delivery of the Call-Off Contract;
3. The Authority shall fix a deadline for the receipt of Mini-tenders taking into account the complexity of the Call-Off Contract and the time needed to prepare an appropriate Mini-tender;
4. Mini-tenders shall be submitted in writing, and their content shall remain confidential until at least the stipulated time limit for reply has expired. The Mini-tender shall comply with the requirements of the Request for Mini-tender and the Fixed Conditions for Call-Off Contracts set out in Clause 6 hereof;
5. Any clarifications requested by a Framework Member in relation to a Mini-tender shall be submitted in writing and any responses containing further material information will be issued in writing to all Framework Members participating in the Mini-tender competition;
6. Following evaluation of all valid Mini-tenders received before the deadline, the Authority shall award the Call-Off Contract to the most economically advantageous tender on the basis of the award criteria set out in the Request for Mini-tender;
7. The Authority reserves the right to exclude a Framework Member from a Mini-tender Competition if in the Authority opinion it has not fulfilled the obligations set out in clause 7 of this document. Alternatively, the Authority may include such a Framework Member in the Mini-tender Competition but make the fulfilment of said obligations a condition for award of the Call-Off Contract.

The Authority shall not be responsible for any costs incurred by Framework Members in the preparation of Tenders or Mini-tenders or any related site visits.

The Authority may elect to cancel a Mini-tender competition at any time at its sole discretion and shall not be bound to award a Call-Off Contract to the most economically advantageous or any tenderer.

On each occasion that a Call-Off Contract is awarded to the Framework Member pursuant to this Clause, the Authority and the successful Framework Member shall enter into a contract in accordance with the Broadcasting Authority of Ireland Terms and Conditions of supply of Services.

Award to runner-up

If for any reason it is not possible to award a Call-Off Contract to the designated successful tenderer emerging from a Competitive Procedure, or if having awarded the Call-Off Contract, the Authority considers that the successful Framework Member has not met its obligations, the Authority reserves the right to award the Call-Off Contract to the next highest scoring Framework Member at any time during the tender validity period as set out in the Invitation to Tender. This shall be without prejudice to any remedies in law or equity that may be available to the Authority with respect to the unsatisfactory performance of the Call-Off Contract.

Award Criteria

Call-Off Contracts under this Framework will be awarded on the basis of the award criteria which were defined in the original framework agreement.

The precise scoping and weighting of the award criteria should be set out in the Request for mini-tender and weighting for any – though not all - of the criteria may be set at 0%.

However, the BAI generally has the authority to vary these criteria to reflect the requirements of the particular call-off. Any changes must be discussed and agreed with the Head of Procurement.

Fixed conditions for call-off contracts

The following terms apply to all mini-tenders submitted by framework members:

Rates

Where the request for mini-tender or request for quotation indicates that the framework member must formulate their financial proposal as daily rates (as opposed to a fixed fee), the rates proposed by the Framework Member in their Mini-tender shall not exceed those identified in Schedule 1 hereto.

The maximum rates chargeable will be adjusted for inflation on each annual anniversary of the Commencement Date of the framework. This adjustment shall be in accordance (whether positive or negative) with the Consumer Price Index.

Personnel

The personnel assigned by the Framework Member to deliver any Call-Off Contract shall be those identified in the Resource Allocation Schedule submitted with its Tender (see Schedule 2) or Mini-tender, or other personnel of equivalent qualifications, professional expertise and experience approved by the Authority.

For the avoidance of doubt personnel of the Framework Member shall include personnel, officers, contractors and agents employed or engaged by the Framework Member to deliver any Call-Off Contract.

APPENDIX 12 – CURRENT FRAMEWORK AGREEMENTS

Agency temporary staff

LOT 1	LOT 2	LOT 3
<i>General administrative staff</i>	<i>Staff with specific training/skills and/or qualifications (at Executive Officer Grade (EO) and above)</i>	<i>Managerial level, legal, regulatory & other</i>
Lex Consultancy	PE Global	Collins McNicholls
Sigmar	Sigmar	Sigmar
PE Global	Accountancy Professionals	-

Legal Services

LOT 1	LOT 2	LOT 3
<i>Public & administrative law</i>	<i>Private law</i>	<i>Employment law</i>
Philip Lee	Byrne Wallace	McDowell Purcell
Byrne Wallace	Philip Lee	Byrne Wallace
Ivor Fitzpatrick	Ivor Fitzpatrick	Hayes Solicitors

Production services

LOT 1	LOT 2
<i>BAI promotional show reels and videos</i>	<i>Animated BAI promotional videos</i>
Mashup Media	Mashup Media
One Productions	One Productions
Red Pepper Productions	Red Pepper Productions
Element Post Production	Element Post Production
Frame It Productions	Igloo Animations

PSB SIA assessments

- Communications Chambers RK Ltd.
- Indecon International Economic Consultants Ltd.,
- Oliver & Ohlbaum Associates Ltd.

APPENDIX 13 – TENDER CHECKLIST

In the following order!

TASK	OWNER		DONE
	Purchaser	Procurement	
Identify (likely) total cost.	✓	✓	
Check if spend has been budgeted for. <ul style="list-style-type: none"> • If yes, proceed • If no, authorisation required per Procurement Policy 	✓	✓	
Draw up specification.	✓		
If above €50k, get prior approval from FAR committee ⁹ .	✓		
Draw up assessment criteria	✓		
Identify assessment panel.	✓		
Create directory in G:\FGP\Procurement\			
Write Request for Tender document		✓	
Publish Request for Tender document.		✓	
Create assessment matrix.		✓	
Forward queries / requests for clarification to purchaser.		✓	
Provide responses to queries	✓		
Publish responses to clarifications on etenders.gov.ie		✓	
Notify reception of tender deadline and process.		✓	
Open tenders, retaining envelopes .		✓	
Complete and sign tender receipt checklist .		✓	
Check tenders for: <ul style="list-style-type: none"> • Completed / signed form of self-declaration (make sure that all requirements are provided) OR • Valid tax clearance cert / etax number; • Turnover evidence and levels; • Insurance (level of cover and valid insurance certificates); • Correct number of copies; • PDF / soft copies; • Other documents if requested. 		✓	
Identify and mark master copies .		✓	
Collate contact data: <ul style="list-style-type: none"> • Company name • Address • Contact name 		✓	

⁹ NB: FAR only meets four times a year so plan ahead. If not already budgeted for, prior approval from Authority may be required.

TASK	OWNER		DONE
	Purchaser	Procurement	
• Contact email address			
DSend tender acknowledgement letters.		✓	
Calculate marks for costs and add to assessment matrix.		✓	
Give assessment panel: <ul style="list-style-type: none"> • Copies of tenders; • Copy of RFT; • Assessment matrix (blank except for marks for ultimate cost); • Explanation of process. 		✓	
Assess tenders	✓	✓	
Request clarifications from tenders if needed (in writing or at meetings)		✓	
Mark tenders against assessment criteria.	✓		
Complete and sign final assessment matrix.		✓	
Send tender regret letters to unsuccessful tenderers.		✓	
Send intention to award contract letter to highest ranked tenderers with draft contract.		✓	
Respond to queries / requests for feedback from unsuccessful tenderers.	✓		
Draft contract.		✓	
Wait for standstill period to expire	✓	✓	
Confirm award of contract to successful tenderer.	✓		
Get (a) insurance certificates, (b) tax clearance certificate, (c) financial information from successful tenderer.	✓		
Issue two signed copies of contract to successful tenderer for their signature and ask for one counter-signed copy to be returned.	✓		
Note to Authority re. ratification of contract award (if needed).	✓		
Advise Finance of cost of contract (and if budget needs to be revised)			
Raise PO.	✓		
Put all procurement documentation (all documents in red in this checklist) in relevant procurement file.	✓	✓	
Save signed contract to relevant file	✓		
Update contracts register.		✓	
Archive procurement files.		✓	

TASK	OWNER		DONE
	Purchaser	Procurement	
Publish contact award notice.		✓	
Create section 84 checklist (if above EU thresholds) and save on file.		✓	