

National Public Procurement Policy Framework



Oifig um Sholáthar Rialtais
Office of Government Procurement



An Roinn Caiteachais Phoiblí
agus Athchóirithe
Department of Public
Expenditure and Reform

Contents

National Public Procurement Policy Framework	3
Accountability.....	3
Government Procurement Reform Programme.....	3
National Public Procurement Policy Framework	5
1. Legislation	5
1.1 Public Service Management Act	5
1.2 EU Procurement Directives	5
1.3 Irish Regulations implementing EU Procurement Directives	7
1.4 Remedies Regime	7
1.5 Remedies Directives	8
1.6 National Remedies Regulations	8
2. Government Policy on Procurement.....	9
2.1 Circular 13/13: Public Spending Code	9
2.2 Corporate Governance Standard for the Civil Service	9
2.3 Code of Practice for the Governance of State Bodies	10
2.4 FOI Code of Practice for Public Bodies	10
2.5 Freedom of Information Model Publication Scheme	10
2.6 Circular 10/2014 - Initiatives to assist SMEs in Public Procurement	11
2.7 Circular 16/2013: Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service.....	11
2.8 Circular 40/2002 - Public Procurement Guidelines- revision of existing procedures for approval of certain contracts in the Central Government sector.....	11
2.9 Circular 05/2013 Procurement of Legal Services and Managing Legal Costs	11
2.10 Circular 01/2016 – Construction Procurement	11
2.11 Circular 6/10 - Construction Procurement Reform	11
3. Capital Works Management Framework for Public Works.....	12
• PILLAR 1 - PUBLIC WORKS CONTRACTS	12
• PILLAR 2 - STANDARD CONDITIONS OF ENGAGEMENT	12
• PILLAR 3 - COST PLANNING & CONTROL / SUITABILITY ASSESSMENT	12
• PILLAR 4 - GUIDANCE NOTES & GLOSSARY.....	12
4. General Procurement Guidelines for Goods and Services.....	12
4.1 Key principles	12
4.2 Below EU Procurement Threshold Rules	12
Less than €5k.....	12

€5 - €25k.....	13
€25k to EU Threshold	13
4.3 Above EU Procurement Thresholds.....	13
5.1 Template Documentation	13
5.2 European Single Procurement Document (ESPD).....	13
5.3 Standard Contract Documentation	14
5.4 Confidentiality Agreement	14
5.5 Model Letters	14
Below EU Threshold	14
Above EU Thresholds.....	14
Appendices.....	15
a) Code of Practice for the Governance of State Bodies - Procedures for Procurement.....	15
Procurement Provisions	15
8.16 Public Procurement:.....	15
8.17 Procedures:	15
b) Corporate Procurement Plan	16

Version 1 of the National Public Procurement Policy Framework published January 2018.

Version 2 of the National Public Procurement Policy Framework published June 2018 with amendments to two hyperlinks.

National Public Procurement Policy Framework

The purpose of this document is to set out the overarching policy framework for public procurement in Ireland.

The National Public Procurement Policy Framework consists of 5 strands:

- 1) Legislation (Directives, Regulations)
- 2) Government Policy (Circulars, etc.)
- 3) Capital Works Management Framework for Public Works
- 4) General Procurement Guidelines for Goods and Services
- 5) More detailed technical guidelines, template documentation and information notes as issued periodically by the Policy Unit of the OGP

The framework sets out the procurement procedures to be followed by Government Departments and State Bodies under national and EU rules. The framework supports contracting authorities, including the OGP, the four key sectors (Health, Education, Local Government and Defence), individual Departments, Offices, commercial and non-commercial State bodies, and private entities which are subsidised 50% or more by a public body, when awarding contracts for works, goods and services. It supports and enables Public Bodies to adopt procedures to meet their Public Procurement requirements and facilitates compliance with EU and National Procurement Rules.

This Framework will be subject to amendment and review periodically and the most up to date version will be published on the Office of Government Procurement's website www.ogp.gov.ie. It is not intended as legal advice or a legal interpretation of Irish or EU law on public procurement. Legal or other professional advice should be obtained if there is any doubt about the correct procedure to be followed.

Accountability

Procurement transactions and decisions must in all respects be fair, equitable and ensure Value for Money. Contracting authorities must be able to justify decisions made and actions taken. Procurement practices are subject to audit and scrutiny under the Comptroller and Auditor General (Amendment) Act 1993, and the Local Government Reform Act 2014, and Accounting Officers are publicly accountable for expenditure incurred. Contracting authorities are responsible for establishing arrangements for ensuring the proper conduct of their affairs, including conformance to standards of good governance and accountability with regard to procurement.

Government Procurement Reform Programme

Procurement is a key element of the Government's Public Service Reform. The State spends approximately €12bn every year on works, goods, and services. In this context, it is essential that the Public Service operates in a co-ordinated and efficient way.

The Office of Government Procurement (OGP) commenced operations in 2014 and, together with four key sectors (Health, Defence, Education and Local Government), has responsibility for sourcing goods and services on behalf of the Public Service. In addition, the OGP also has responsibility for procurement policy and procedures for the entire Public Sector.

Through the Central Purchasing model, the Public Service speaks with "one voice" to the market for each category of expenditure, eliminating duplication and taking advantage of the scale of public procurement to best effect.

The new model has led to a shift from decentralised to a centralised model of procurement for sixteen categories of spend. The OGP is responsible for Framework Agreements (FWA) where it is the Contracting Authority. The OGP facilitates mini-competitions under these FWAs for both Central Government and non-Central Government. It acts in an advisory role in this respect but the individual Contracting Authorities are accountable and responsible for the mini-competitions and also bespoke contracts.

Government policy is that public bodies, where possible, should make use of all such central arrangements. Where public bodies do not utilise central procurement frameworks they should be in a position to provide a Value for Money justification.

National Public Procurement Policy Framework

1. Legislation

1.1 Public Service Management Act¹

Responsibility for ensuring Value for Money outcomes rests with individual departments and offices. Under section 4(f) and (g) of the Public Service Management Act (PSMA), 1997², Departments and scheduled Offices are required to provide cost effective public services, achieve better use of resources and comply with the requirements of the Comptroller and Auditor General (Amendment) Act, 1993. Similar rules, which require Value for Money outcomes, apply to bodies which are audited by the Comptroller and Auditor General.

1.2 EU Procurement Directives³

To create a level playing field for all businesses across Europe, EU law sets out minimum harmonised public procurement rules. These rules govern the way public authorities and certain utility operators purchase goods, works and services. The rules are set out in three principal EU Directives which are transposed into national legislation and apply to tenders for public contracts whose monetary value exceeds a certain threshold. For tenders of lower value, national rules apply. Nevertheless, these national rules also have to respect the general principles of EU law.

The current EU Directives are:

- Directive 2014/24/EU on public procurement (goods, services and works);
- Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors; and
- Directive 2014/23/EU on the award of Concession Contracts.

The new Public Authorities Contracts Directive (2014/24/EU: the “Classical”) and the Utilities Directive (2014/25/EU: the “Utilities”) reflect the existing framework of procurement law. The reforms across both Directives are designed to improve the effectiveness of the regime and to codify recent procurement case law. The incremental changes in these Regulations are intended to help streamline public procurement processes and embed more simplified and flexible rules for the selection of suppliers. This should allow public bodies to carry out procurement faster and with less 'red tape'. In broader economic terms, the new features can facilitate better Value for Money outcomes for the taxpayer from public procurement and facilitate greater SME participation and access to public procurement opportunities. These Regulations provide for, among other things, the following:

- There is scope to take account of economy-wide strategic policy goals in the areas of environmental, social and labour law compliance. These obligations can be included in clauses

¹ <http://www.irishstatutebook.ie/eli/1997/act/27/enacted/en/html>

² This states that Secretary Generals or the head of a Scheduled Office are, subject to the determination of matters of policy by the Minister of the Government, tasked with “...(f) ensuring that the resources of the Department or Scheduled Office are used in a manner that is in accordance with the Comptroller and Auditor General (Amendment) Act, 1993 with a view to enabling the matters referred to in paragraphs (a) to (d) of Section 19(1) of that Act to be appropriately addressed by the Department or Scheduled office; (g) examining and developing means that will improve the provision by the Department or Scheduled Office of cost effective public services..”

³ <http://ogp.gov.ie/guidelines-sub-menu-procurement-legislation/>

in public contracts with the proviso that the clauses are linked to the subject-matter of the contract in question.

- A new Light Touch regime is provided for covering mainly social, health and educational services (“services to the person”) for contracts above €750,000. The rules and procedures in the regime are intended to maximise flexibility in the conduct of procurement in these areas (designated CPV codes in the Directive) while adhering to the key procurement principles of transparency, equality of treatment etc. There are 14 broad categories of social and other services to which the light touch regime applies. For more details of the precise services falling within this regime, contracting authorities should refer to Annex XIV of the EU Classical Directive 2014/24/EU where the relevant CPV codes for these services are set out.
- Public bodies can be required to use OGP’s (or another designated central purchasing body in the State) procurement arrangements such as frameworks or dynamic purchasing systems.
- Changes intended to improve efficiency and effectiveness in the procurement process include the following:
 - electronic methods of communication are now mandated in parts of the award process (electronic submission of tenders and requests to participate by October 2018 - for Central Purchasing Bodies from April 2017);
 - use of a self-declaration (European Single Procurement Document) of compliance with selection and exclusion criteria by suppliers to reduce red tape;
 - reduction in the time limits for receipt of tenders by 30%; explicitly allowing prior discussion with suppliers and independent experts, with safeguards against distorting competition or violating transparency and non-discrimination principles;
 - simplifying the use of dynamic purchasing systems (DPS): the main features of DPS include: no time limit on duration; no need to advertise call-off contracts; suppliers can be added at any time; entirely electronic system.
- The Directives include provisions to encourage greater access to SME as well as to persons with disabilities including:
 - the discretion to divide public contracts into lots, with the proviso that opting not to lot contracts must be explained in the procurement documents;
 - provision for “consortia bidding” to encourage SME involvement;
 - financial capacity criterion is now less demanding; it is generally limited to twice contract value;
 - reform of the rules for Sheltered Workshops to encourage greater take-up; reduction in the percentage of employees with a disability from 50% to 30% and the inclusion of “disadvantage” in addition to “disability”;
 - particular contracts can be ring fenced (reserved) for social enterprises under certain conditions.
- The current grounds for excluding suppliers (organised crime; corruption; fraud; money laundering) have been expanded to include terrorism; child labour; human trafficking.

- The Directives⁴ also provide for written reports documenting the procurement process. These reports record the decisions taken and the justification for same including the subject matter and value of the contract, the results of the pre-qualification process with reasons provided for selection/non-selection, reasons for rejecting abnormally low tenders, name of the preferred bidder and the reasons for selecting their tender, reasons for not using lots etc..

1.3 Irish Regulations implementing EU Procurement Directives

The EU Procurement Directives were transposed into Irish Law in 2016 and 2017 by way of national Regulations contained in Statutory Instruments as follows:

- S.I. No. 284 of 2016 (the “2016 Regulations”);
- S.I. No. 286 of 2016 (the “2016 Utilities Regulations”); and
- S.I. No. 203 of 2017 (the “2017 Concessions Regulations”).

1.4 Remedies Regime

European public procurement law is governed by two strands of Directives covering:

- a) The procedures for conducting the award of public contracts (as set out in 1.2 and 1.3 above); and
- b) Remedy procedures to ensure compliance with public procurement procedures and for review and remediation of infringements of those procedures.

The latter Remedies Regime allows tenderers or candidates who feel that a procurement process was not carried out in an open, fair and transparent manner the option of seeking recourse from the courts.

While EU public procurement legislation dates back over nearly 50 years, the provision of a Remedies strand was only introduced in 1989. These provisions, as amended in 2007 were transposed into Irish law in 2010.

The national Remedies Regulations provide a recourse option to tenderers or candidates, at High Court level, to challenge procurement processes which they may consider were not compliant with public procurement rules.

A plaintiff in such matters can seek review in relation to the specified aspects of procedural and contract award procedures. Upon application, the Court may decide or act in accordance with the following:

- To set aside, vary or affirm a decision of the contracting authority;
- To declare the contract ineffective, impose alternative penalties on a contracting authority and make any necessary consequential orders;
- To make an order correcting an alleged infringement or preventing further damage;
- To set aside any discriminatory, technical, economic or financial specifications in any of the procurement documents;

⁴ Article 84 - Individual reports on procedures for the award of contracts

- To suspend the operation of a decision or contract; and
- To award damages where a procedural infringement has occurred, after the conclusion of a contract but not where the contract has been declared ineffective.

Additionally, the Remedies Regulations provide:

- a formal standstill period between the award and the conclusion of a public contract;
- an automatic suspension of the contract award procedure;
- an obligation to inform all candidates and tenderers about the outcome of tender procedures and contract award decisions; and
- time limits for making Court applications.

1.5 Remedies Directives

The EU Directives covering the provision of Remedies consist of a sequence of 4 Directives from 1989 to 2014. They sit alongside and in parallel to the main EU Public Procurement Directives which set out the rules for public procurement for contracts above the EU value thresholds. The set of Remedies Directives set out the provisions for redress of misapplication of the EU Public Procurement Directives in the course of the process and the award of a public contract.

The 4 Remedies Directives are:

- [Directive 89/665/EEC](#) Review Procedures for Public Contracts
- [Directive 92/13/EEC](#) Review Procedures for Utility Sector Contracts
- [Directive 2007/66/EC](#) Amending Directive to 89/665/EC and 92/13/EC
- [Directive 2014/23/EU](#)
 - [Article 46](#) Amending Directive updating application of Review Procedures to the Procurement regimes covering Directive 2014/24/EU and 2014/23/EU – Public Contracts and Concession Contracts.
 - [Article 47](#) Amending Directive updating application of Review Procedures to the Procurement regimes covering Directive 2014/25/EU – Utility Sector Contracts.

1.6 National Remedies Regulations

There are several relevant Regulations which implement the suite of EU Remedies Directives since 1989. The substantive Regulations were published in 2010 with a number of amending Regulations published since then.

The substantive Regulations of 2010 which implement the relevant Directives (as listed above) from 1989, 1992 and 2007 are:

- [S.I. No. 130 of 2010](#) - European Communities (Public Authorities' Contracts) (Review Procedures) Regulations 2010
- [S.I. No. 131 of 2010](#) - European Communities (Award of Contracts by Utility Undertakings) (Review Procedures) Regulations 2010.

There were two amending Regulations in 2015 to regularise the procedures governing the automatic suspension provisions:

- [S.I. No. 192 of 2015](#) - European Communities (Public Authorities' Contracts) (Review Procedures) (Amendment) Regulations 2015
- [S.I. No. 193 of 2015](#) - European Communities (Award of Contracts by Utility Undertakings) (Review Procedures) (Amendment) Regulations 2015.

There is a further set of three Regulations published in 2017 to update the national Remedies provisions and align them with the corresponding public procurement Regulations:

- [S.I. No. 326 of 2017](#) - EU Award of Concession Contracts (Review Procedures) Regulations 2017
- [S.I. No. 327 of 2017](#) - EU Public Authorities' Contracts (Review Procedures) (Amendment) Regulations 2017
- [S.I. No. 328 of 2017](#) - EU Award of Contracts by Utility Undertakings (Review Procedures) (Amendment) Regulations 2017.

2. Government Policy on Procurement

Government Policy is set out in various circulars issued by the Departments of Finance and Public Expenditure and Reform. The key policy instruments⁵ in this regard are as follows:

2.1 Circular 13/13: Public Spending Code⁶

Expenditure Planning, Appraisal & Evaluation in the Irish Public Service: Standard Rules & Procedures;

The Public Spending Code (www.publicspendingcode.per.gov.ie); and

The comprehensive set of expenditure appraisal, Value for Money requirements and related guidance covering all public expenditure. The Code combines and updates the previous components of the VFM framework and also includes additional modules. It includes procurement guidelines.

2.2 Corporate Governance Standard for the Civil Service⁷

The [Corporate Governance Standard](#) for the Civil Service is to be used by each Department and Office to guide the development of their individual Governance Frameworks. Good governance is central to the effective operation of Government Departments. It is vitally important in effectively discharging their statutory and policy obligations. It ensures that a framework of structures, policies and processes are in place to deliver on these obligations and it allows for an objective assessment of management and corporate performance. The Standard sets out a summary of good governance principles, and an adaptable Governance Framework including provisions to be used in documenting each Department's own arrangements. Departments and Offices are now to document and publish their governance arrangements in accordance with the principles set out in this Standard. The standard includes procurement elements including compliance with the procurement Directives.

⁵ Note, additional circulars are available on the OGP website <http://ogp.gov.ie/goods/>

⁶ <http://circulars.gov.ie/pdf/circular/per/2013/13.pdf>

⁷ <http://www.per.gov.ie/en/corporate-governance-standard/>

2.3 Code of Practice for the Governance of State Bodies⁸

The Code provides a framework for the application of best practice in corporate governance by both commercial and non-commercial State bodies. State bodies should demonstrate their commitment to achieving the highest possible standards of corporate governance. State bodies and their subsidiaries are required to confirm to their relevant Minister that they comply with this Code of Practice for the Governance of State Bodies in their governance practices and procedures.

The Code concerns both the internal practices of the State bodies and their external relations with Government, the relevant Minister under whose aegis they fall, the Minister for Public Expenditure and Reform and their respective parent Departments. Reference is made to ethics in public office obligations that apply to all designated Board members and designated office holders. It is recognised, however, that all aspects of this Code may not necessarily be appropriate for some smaller State bodies. Accordingly, the Code makes provision for certain requirements to be applied proportionately in certain circumstances subject to the written agreement of the relevant Minister/Parent Department. The provisions of this Code do not override existing statutory requirements and other obligations imposed by the Companies Act 2014, Ethics in Public Office legislation, the specific statutory provisions relating to the State body itself and any other relevant legislation (e.g. equality legislation, employment legislation).

The Code identifies procurement as one of a number of activities requiring special attention in promoting good corporate governance including having a Corporate Procurement Plan.

2.4 FOI Code of Practice for Public Bodies⁹

FOI Bodies should publish on a quarterly basis details of public contracts awarded (including awards from mini-competitions under existing framework agreements) for values over €25,000 (exclusive of VAT).

2.5 Freedom of Information Model Publication Scheme¹⁰

FOI bodies are required to provide the following details in relation to public procurement under the Model Publication Scheme published by the Department of Public Expenditure and Reform in 2016.

- Procurement policies;
- A link to all current tender competitions on the eTenders website. Details of current tender competitions over €25,000 (exclusive of VAT) are available on www.etenders.gov.ie;
- Public contracts over €25k (exclusive of VAT) contracts awarded including contract type, contractor, value, award date, duration and brief description (tabular format);
- On a quarterly basis, details of public contracts awarded for values over €25,000 (exclusive of VAT) should be published including:
 - Whether this is an award for a single contract or an award from a framework;
 - Name of winning contractor and legal address;

⁸ <http://www.per.gov.ie/en/reviced-code-of-practice-for-the-governance-of-state-bodies/>

⁹ <http://foi.gov.ie/code-of-practice/>

¹⁰ <http://foi.gov.ie/guidance/model-publication-scheme/>

- Value of the contract (exclusive of VAT);
- Type of Contract (works, supplies, services);
- Contract Award Date;
- Duration of contract in months; and
- Brief description of contract.

2.6 Circular 10/2014 - Initiatives to assist SMEs in Public Procurement¹¹

Buyers are required to advertise all contracts for supplies and services with an estimated value of €25,000 (exclusive of VAT) and upwards on www.etenders.gov.ie.

Buyers are required to publish all Contract Award Notices over €25,000 on the eTenders website on completion of the award.

2.7 Circular 16/2013: Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service¹²

Government policy is that public bodies, where possible, should make use of all such central arrangements. Where public bodies do not utilise central procurement frameworks they should be in a position to provide a Value for Money justification.

2.8 Circular 40/2002 - Public Procurement Guidelines- revision of existing procedures for approval of certain contracts in the Central Government sector¹³

Annual Report (signed off by the Accounting Officer) and submitted to the C&AG in respect of contracts above a €25,000 threshold (exclusive of VAT) which have been awarded without a competitive process.

2.9 Circular 05/2013 Procurement of Legal Services and Managing Legal Costs¹⁴

The Circular reminds public bodies of their obligations to ensure that their procurement of legal services complies with the rules and guidelines on public procurement and outlines appropriate competitive procedures that can be used in the engagement of legal services.

2.10 Circular 01/2016 – Construction Procurement¹⁵

Construction Procurement - Revised Arrangements for the procurement of public works contracts.

2.11 Circular 6/10 - Construction Procurement Reform¹⁶

Construction Procurement Reform - the new Capital Works Management Framework.

¹¹ <http://ogp.gov.ie/990-2/>

¹² <http://ogp.gov.ie/986-2/>

¹³ <http://ogp.gov.ie/997-2/>

¹⁴ <http://ogp.gov.ie/995-2/>

¹⁵ <http://constructionprocurement.gov.ie/wp-content/uploads/Circular-01-2016.pdf>

¹⁶ <http://constructionprocurement.gov.ie/wp-content/uploads/circ0610.pdf>

3. Capital Works Management Framework for Public Works¹⁷

The Capital Works Management Framework (CWMF) is a structure that has been developed to deliver the Government's objectives in relation to public sector construction procurement reform. The CWMF contains an integrated set of contractual provisions, guidance material, technical templates and procedures which cover all aspects of the delivery process of a public works project from inception to final project delivery and review.

The CWMF is for the use by contracting authorities involved in the expenditure of public funds on construction projects and related consultancy services. The use of the framework should result in a more cost effective delivery of public works projects because of the more systematic and detailed approach to, among other things, planning (both initial and detailed), capital budgeting as well as design and construction cost control.

It consists of a suite of best practice guidance, standard contracts and generic template documents that form the four pillars that support the Framework, as follows:

- PILLAR 1 - PUBLIC WORKS CONTRACTS;
- PILLAR 2 - STANDARD CONDITIONS OF ENGAGEMENT;
- PILLAR 3 - COST PLANNING & CONTROL / SUITABILITY ASSESSMENT; and
- PILLAR 4 - GUIDANCE NOTES & GLOSSARY.

4. General Procurement Guidelines for Goods and Services¹⁸

The General Procurement Guidelines for Goods and Services are intended to serve as a toolkit for practitioners, and a general reference document for suppliers. They have been written in plain language with a view to providing a clear appreciation of the rules, procedures and best practice attached to the various stages of the public procurement process. The new guidelines are aimed at demystifying some of the more complex rules and procedures and to promote and reinforce improved best practice, standardisation and consistency of approach among public procurement practitioners.

4.1 Key principles

- Procurement transactions and decisions must in all respects be non-discriminatory, fair, equitable and ensure Value for Money;
- Contracting authorities must be able to justify decisions made and actions taken; and
- Generally, a competitive process carried out in an open and transparent manner delivers best VFM.

4.2 Below EU Procurement Threshold Rules¹⁹

Less than €5k

- Award on basis of verbal quotes from competitive suppliers.

¹⁷ <http://constructionprocurement.gov.ie/capital-works-management-framework/>

¹⁸ <http://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services-2/>

¹⁹ The EU Thresholds are revised every 2 years with the last revision on 1/1/18. The current thresholds are available @ https://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/thresholds_en

€5 - €25k

- Award on the basis of written/email responses to specifications sent to at least three suppliers or service providers.

€25k to EU Threshold

- Award on basis of clear evaluation criteria in line with more detailed specifications and advertise on eTenders website.

4.3 Above EU Procurement Thresholds

In relation to above EU threshold public procurement, there are six types of procedures available to contracting authorities in awarding contracts as follows:

- the Open Procedure;
- the Restricted Procedure;
- the Competitive Dialogue procedure;
- the Competitive Procedure with Negotiation;
- the Innovation Partnership procedure; and
- the Negotiated Procedure without Prior Publication.

The choice of procedure will vary depending on the nature and circumstances of each contract. The Open Procedure is the most commonly used procedure. More detail is available in the Public Procurement Guidelines for Goods and Service published by the OGP and available on the www.ogp.gov.ie website.

5. More detailed technical guidelines, template documentation and information notes as issued periodically by the Policy Unit of the OGP

5.1 Template Documentation

The OGP published a standard suite of templates in April 2016, to reflect the new EU Procurement Directives. In July 2017, the OGP published an updated suite of templates to reflect feedback received from Contracting Authorities mainly in relation to formatting. This will make them more user-friendly while still meeting the legal requirements. With the implementation of the General Data Protection Regulation in May 2018 they have once again been revised to reflect the necessary changes

The OGP should be contacted in the first instance regarding procurement requirements. The templates, which are designed for above EU threshold tenders, are to be used by Contracting Authorities (Government Departments and State Bodies) for low to medium risk goods and services.

Contracting Authorities are advised to read the revised templates carefully and to seek legal advice if required.

The Goods and Services Request for Tender Documents are to be used when initiating a tendering process, these can be found along with user guides at the following webpage:

- [Request for Tender Templates and User Guides](#)

5.2 European Single Procurement Document (ESPD)

This European Single Procurement Document references the OGP template RFT documents. It should be completed by Suppliers and included in their tender documents:

- [European Single Procurement Document](#)

5.3 Standard Contract Documentation

These documents are to be used for the execution of the contract following the completion of the RFT stage and can be found, along with user guides at the following webpage:

- [Contract Templates and User Guides](#)

5.4 Confidentiality Agreement

These documents are to be used for the execution of a confidentiality agreement:

- [Goods Confidentiality Agreement](#)
- [Services Confidentiality Agreement Template](#)

5.5 Model Letters²⁰

Below EU Threshold

- [Letter to the Preferred Tenderer \(Successful Tenderer\)](#)
- [Notice to Unsuccessful Tender at Evaluation Stage](#)

Above EU Thresholds

Scenario	Model Letter to be used
Non-compliant tenders and tenderers who do not meet the Selection Criteria	Letters 1, 2 and 3
Contracting authority seeking documentary evidence from tenderers (ESPD documentation)	Letter 4
Tenderer fails to qualify on the evidence it has submitted	Letter 5
Unsuccessful tenderer	Letter 6
Successful tenderer	Letter 7

These letters are available on the OGP website <http://ogp.gov.ie/wp-content/uploads/Model-Letters-above-and-below-EU-Threshold-Open-Competition.docx>

²⁰ <http://ogp.gov.ie/wp-content/uploads/Model-Letters-above-and-below-EU-Threshold-Open-Competition.docx>

Appendices

a) Code of Practice for the Governance of State Bodies - Procedures for Procurement

Procurement Provisions

8.16 Public Procurement:

It is the responsibility of the Board to satisfy itself that the requirements for public procurement are adhered to and to be fully conversant with the current value thresholds for the application of EU and national procurement rules. The Board should satisfy itself that procurement policies and procedures have been developed and published to all staff. It should also ensure that procedures are in place to detect non-compliance with procurement procedures. Entities should have a contracts database/listing for all contracts/payments in excess of €25,000 with monitoring systems in place to flag non-competitive procurement. Non-competitive procurement should be reported in the Chairperson's comprehensive report to the Minister.

8.17 Procedures:

Similarly, the Board should ensure that competitive tendering should be standard procedure in the procurement process of State bodies. Management, and ultimately the Board, should ensure that there is an appropriate focus on good practice in purchasing and that procedures are in place to ensure compliance with procurement policy and guidelines.

8.18 Legal Obligations:

EU Directives and national regulations impose legal obligations on public bodies in regard to advertising and the use of objective tendering procedures for awarding contracts above certain value thresholds. Even in the case of procurement which might not be subject to the full scope of EU Directives, such as certain 'non-priority' services or service concessions, the EU Commission and European Court of Justice have ruled that EU Treaty principles must be observed.

8.19 EU Treaty Principles:

The essential Treaty principles include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment. There is a strongly implied requirement to publicise contracts of significant value to a degree which allows parties in other Member States the opportunity to express an interest or to submit tenders.

8.20 Corporate Procurement Plan:

The Office of Government Procurement Policy Framework requires that all non-commercial State bodies complete a Corporate Procurement Plan. This plan is underpinned by analysis of expenditure on procurement and the procurement and purchasing structures in the organisation. The plan should set practical and strategic aims, objectives for improved procurement outcomes and appropriate measures to achieve these aims should be implemented. The Chairperson should affirm adherence to the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan in the comprehensive report to the Minister.

8.21 Procurement Information:

Information on procurement policy and general guidance on procurement matters is published by the Office of Government Procurement. This can be viewed or downloaded from the Office of Government Procurement website.

b) Corporate Procurement Plan

