



# TENDER ADVISORY SERVICE

July 2018



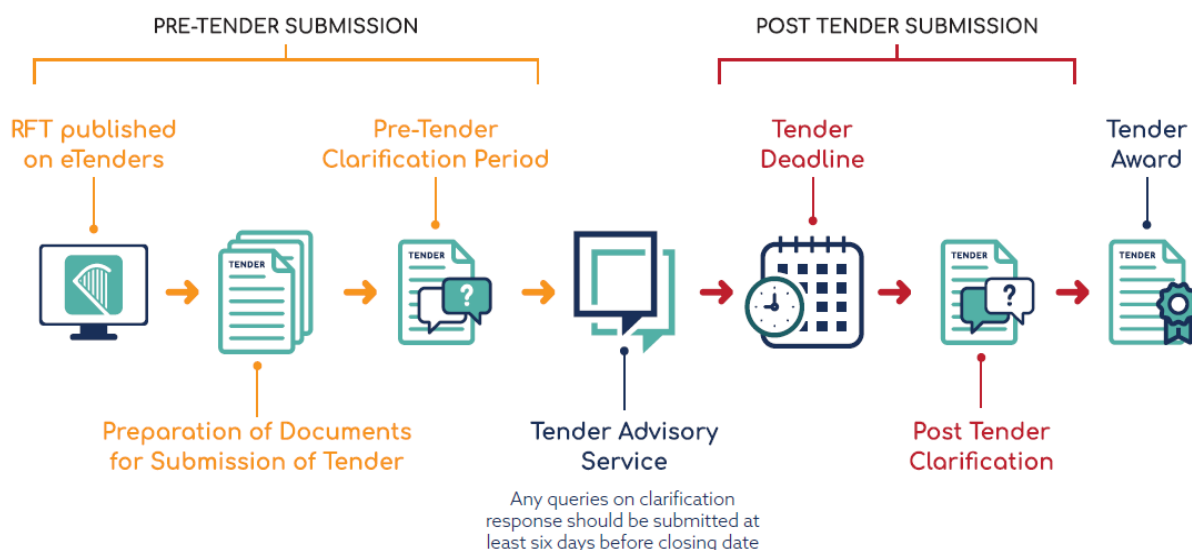
Oifig um Sholáthar Rialtais  
Office of Government Procurement



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

## Tender Advisory Service

1. The Tender Advisory Service (TAS) was established by the Office of Government Procurement (OGP) as a pilot programme in 2014 and began accepting enquiries in 2015. It was devised in consultation with SME stakeholders, to address concerns in relation to perceived barriers for SMEs in competing for tender opportunities.
2. TAS is an informal outlet, provided free of charge, to suppliers in order to raise concerns in relation to a live tender process carried out by the OGP or other public sector contracting bodies.
3. Suppliers actively engaged in a live tender process can avail of TAS. The service is available at only one point in the open tendering process, which is after the clarification process has been utilised and not less than six days before the closing date for receipt of tenders.



4. The service has been developed to assist suppliers and in no way impedes them from pursuing their rights formally under the remedies legislation.
5. Commercial state bodies, major works<sup>1</sup> and defence/security tenders<sup>2</sup> (regulated under Statutory Instrument 62/20122) are outside the scope of this the service.

## Independent Review

6. An internal review of TAS was conducted in 2016 after its first year of service. It found that TAS was fulfilling its function and the TAS pilot scheme should be extended for another year. In June 2017, an independent review of the service was conducted in line with the Programme for Government. The aim of the review was to provide an assessment of the contribution of TAS to the public procurement process, and to evaluate whether the current design and operation of the service is sufficient, appropriate and proportionate in the context of similar

<sup>1</sup> Major Works are defined for the purpose of TAS as works contracts with a value in excess of €500,000

<sup>2</sup> Refers to (a) Military equipment plus related works and services. (b) Sensitive security equipment, works and services which involve access to classified information.

type services in other jurisdictions. The review concluded that while the numbers engaging with the service are small, the service's approach to dealing with queries arising within its remit have been successful and they have had a positive impact. Following consultation with the SME Advisory Group it has been agreed that TAS should now be re-launched to take account of the recommendations of the independent review and the views of the members of the Advisory Group.

## Objectives of the Service

7. The objectives of TAS will continue to be:
  - to provide an informal outlet for potential suppliers to raise concerns in relation to a particular live tender process;
  - to act as an impartial broker between suppliers and contracting authorities during a tender process;
  - to improve communications and promote a consistent approach to how procurement processes are carried out across the public service; and
  - to contribute to an improved public procurement landscape for both suppliers and contracting authorities.
8. On receipt of a standard enquiry form TAS will liaise with potential suppliers and contracting authorities to clarify or query tender documentation and, where necessary, will make suggestions to contracting authorities aimed at resolving the concerns that have been raised.

## Eligibility Criteria and use of TAS

9. TAS can be used by individuals and companies in the following circumstances:
  - where a Request for Tender (RFT) has been published;
  - the supplier must have registered an interest in a specific live tender process;
  - the supplier has sought answer to their queries through the normal clarification process with the Contracting Authority; and
  - where the supplier is not satisfied with the response from the contracting authority.
10. A TAS query must be submitted up to six days before closing date for receipt of tenders to allow for concerns/issues to be fully communicated and processed by TAS.
11. Enquiries should in the first instance be made to the OGP Support Helpdesk, who will advise the enquirer on their eligibility for the service and the various steps involved in pursuing their enquiry. They can be contacted using the following details:  
Email: [support@ogp.gov.ie](mailto:support@ogp.gov.ie) or by Phone: 076 100 8000
12. A Standard Enquiry form should be completed for queries which fall within the remit of TAS and emailed to [tenderadvisoryservice@ogp.gov.ie](mailto:tenderadvisoryservice@ogp.gov.ie). The form can be found at [www.ogp.gov.ie/tender-advisory-service](http://www.ogp.gov.ie/tender-advisory-service)

## Outcome

13. Given the wide range of tender processes in which the State is engaged, TAS may after considering the application make suggestions to the Contracting Authority, including but not limited to:
  - issuing further clarification to the RFT documentation;
  - extending the timeline for tender submission;
  - providing guidance in relation to the application of National Rules and EU Directives;  
or
  - no change to the process or RFT qualifying requirements.
14. The above merely serves to illustrate the type of suggestions that may be provided by TAS. Under EU and National rules, contracting authorities are responsible for their own decisions relating to the tendering process. Accordingly, TAS cannot formally investigate supplier's concerns/issues or change decisions taken by contracting authorities. In addition, TAS cannot instruct any contracting authority to change its position as all contracting authorities operate independently and follow the rules and regulations set down in the EU Directives and National guidelines.
15. However, in the interests of best practice, contracting authorities are encouraged to comply with any suggestion made by this service.

## Management of TAS Operations

16. The TAS mailbox will be monitored by OGP Support Helpdesk staff who will screen all queries, directing TAS queries to the Policy Unit and non TAS related queries to other units.
17. TAS will be managed by the Policy Unit in the OGP. The functions carried out by the Policy Unit in managing TAS will be carried out in an impartial and transparent manner and are completely separate from sourcing and operational sections within the OGP.
18. In order to avoid delay in the tender process, it is envisaged that the service should take no more than 3 working days. However, it is appreciated that in a small number of instances TAS queries may take longer depending on the complexity of the tender process concerned. In such instances, TAS may request the contracting authority to consider extending the period during which tenders will be accepted where this is feasible. Any decision to extend the time is, however, solely a matter for the contracting authority.
19. An expert panel consisting of procurement professionals with extensive knowledge and experience within the OGP and Defence, Education, Health and Local Authority sectors has been formed. This panel may be used to consult and advise on particularly complex enquiries or tenders published by the OGP.
20. TAS may liaise between potential suppliers and contracting authorities to clarify or query tender documentation and, where necessary, will make suggestions to contracting authorities where it is considered appropriate, for direct reply to all interested parties.

21. Experience to date has shown that the vast majority of queries will be routine and are likely to be resolved through telephone or e-mail channels. As a matter of course TAS will communicate, to all parties, the informal nature of this service and that they do not have any legal authority to overturn any decision that has already been taken by the responsible contracting authority. As tendering of Public Service contracts must be carried out in an open and transparent manner, any changes to a tender process arising from TAS will be communicated by the contracting authority to all suppliers who have registered an interest in the tender process.
22. Suppliers submitting an enquiry to TAS must be aware that they are consenting to the information being made available to the relevant contracting authority in order to facilitate the processing of their enquiry.
23. Information volunteered by suppliers will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Act 1988, the Data Protection (Amendment) Act 2003 and the General Data Protection Regulation 2018. Each request to use TAS will be recorded in a database and maintained by the Policy Unit and Customer Services Unit. This information may be used for the purposes of compiling statistics on the usage of TAS. Where the operation of TAS is being reported on, all information will be presented in an anonymised manner to protect the identity of the relevant parties.